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ABSTRACT

This report examines fiscal and legal issues affecting nonresident students. Chapter 1 classifies students for tuition purposes. Results of new laws and governing actions taken through January 1973 are reviewed. Chapter 2 examines factors other than laws and regulations that influence student migration. These factors include: quotas on the admission of nonresidents, differential admission standards from nonresident students, and the use of nonresident student tuition charges as a technique for controlling admission of nonresidents to public colleges and universities. Chapter 3 presents a descriptive analysis of migrating students, their backgrounds, and their educational purposes. Chapter 4 is devoted to a commentary on the legal issues involved in nonresident student matters. Relevant cases and decisions of the court in all that have been adjudicated are cited. Chapter 5 explores the impact of voting and age of majority legislation in the area of higher education. Chapter 6 reviews the past and makes projections for the future. The subject of nonresident student affairs is related to the broader topic of funding higher education. (Author/MJM)

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STUDENTS AND STATE BORDERS

FISCAL/LEGAL ISSUES AFFECTING NONRESIDENT STUDENTS

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STUDENTS AND STATE BORDERS

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ACT SPECIAL REPORT SEVEN

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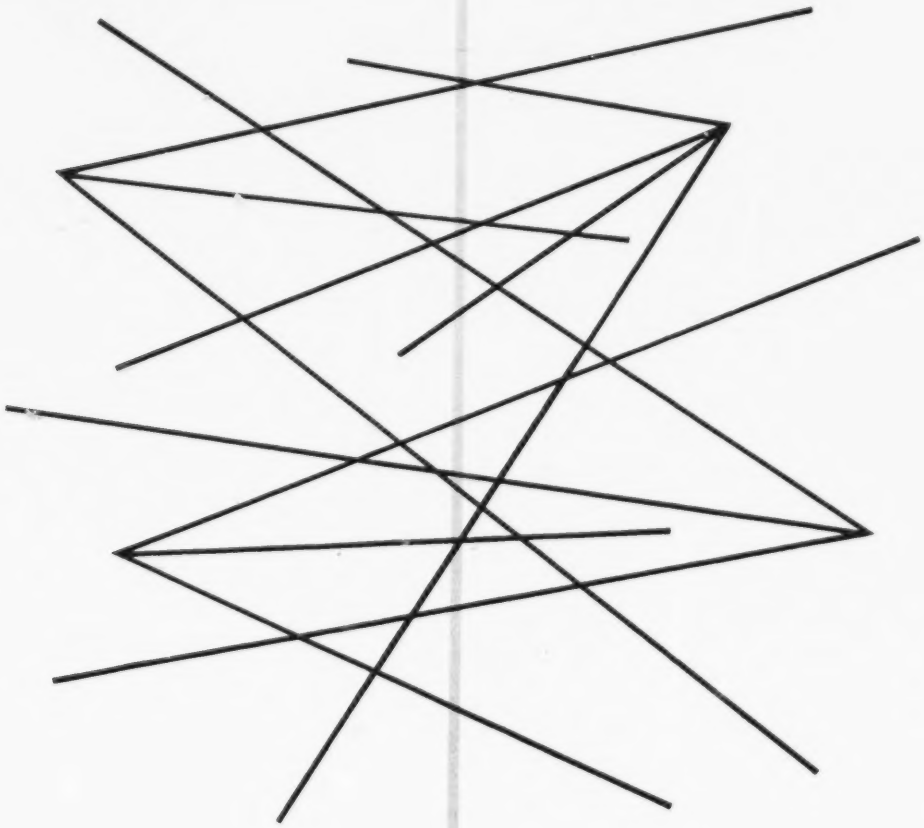

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Robert F. Carbone has been Dean of the College of Education of the University of Maryland since 1970. He spent the 5 years previous to that at the University of Wisconsin. During his first year there he served as administrative assistant to the academic vice president in an internship program designed to prepare future academic administrators. He then was named Special Assistant to the President, a post he held for 4 years.

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Dr. Carbone has had numerous articles published in professional journals, many of them dealing with two special fields of interest. Early in his professional career he did a number of studies comparing graded and nongraded schools. More recently he has devoted much of his time to researching problems of nonresident students and the institutions that must classify them for tuition purposes.

Montana is Dr. Carbone's native state. He was born in Plentywood and attended Eastern Montana College in Billings where he received his BS in 1953. In 1958 he was awarded the MEd from Emory University. He then did further graduate work at the University of Chicago and earned the PhD from that institution in 1961.

PREFACE

My interest in nonresident students actually began quite by accident and in a most unlikely place—at 35,000 feet in a BOAC jet flying over the Congo River. In May of 1967, while serving as assistant to the president of the University of Wisconsin, I was on a tour of university educational programs in Africa. I picked up a copy of the previous day's *New York Times* and to my surprise, midway in my flight from Lagos to Nairobi, I came across a story about one of my Wisconsin colleagues. Dr. Martha Peterson, who was also on the president's staff at that time, had just been named president of Barnard College.

One of President Peterson's responsibilities at Wisconsin was coordination of admissions and registration matters for the several campuses. Of course, this involved the classification of students for tuition purposes and hearing appeals when students sought to be reclassified as residents, qualifying for lower tuition rates. When I returned from Africa, I learned that President Peterson's departure would result in a reshuffling of work for those of us remaining. I was to inherit her admissions and registration—and nonresident student—tasks. Thus began an involvement that has developed into a long-range academic interest. It has yielded a series of studies and reports, issued by the Education Commission of the States and two associations of public colleges and universities in Washington (National Association of State Universities and Land-Grant Colleges and the American Association of State Colleges and Universities).

This report can be thought of as a "culminating" event in this series of publications. It is my purpose to pull together in one document the several elements of my studies on nonresident students and to update the information so it reflects the important events of the 1972-73 academic year. Clearly this effort would not have been possible without the interest and support of Dr. Fred Harcleroad, president of The American College Testing Program. His encouragement and willingness to publish this manuscript as one of the ACT Special Report series is greatly appreciated.

My thanks goes also to those individuals who contributed to the manuscript. Larry Van Dyne of the editorial staff of the *Chronicle of Higher Education* did the chapter reviewing court cases in this area. Robert H. Fenske and Craig F. Scott of ACT's Research Institute agreed to rewrite their earlier research report on student migration, and it is included also. Ione Phillips of the Office of Institutional Research, National Association of State Universities and Land-Grant Colleges, contributed a report on trends in tuition and fees charged students in public colleges which was incorporated in the chapter dealing with that topic. Finally, I want to thank Judy Miller of the ACT staff for her help in preparing the manuscript.

The route from the skies of Africa to the rolling hills near Iowa City has been an interesting journey. Between 1967 and 1973, the world of higher education has experienced increasing concern for the fiscal and political problems associated with admission of nonresident students to public colleges. It is my hope that this report will be a contribution to our understanding of those problems. In it I review the past to give some perspective and attempt to predict the future so that we may have a better idea of how to plan for coming events. Of course, I accept full responsibility for the accuracy (or inaccuracy) of all factual material and for all points of view expressed here.

College Park, Md.
March 1973

INTRODUCTION

Nonresident students are special people.[1] They are singled out for all sorts of unique treatment in our public colleges and universities. They are eagerly recruited by some admissions officers, but viewed with suspicion by some local citizens and political leaders. The major distinguishing characteristic of nonresident students is an economic factor — many (but not all) of them pay tuition rates that are higher than the rates charged in-state students. Often the differential is two to three times the resident rate.

It is possible to cite other characteristics that illustrate differences between resident and nonresident students. Many institutions have more stringent admission criteria for nonresidents so, on the average, nonresident students tend to be academically more capable than resident students. In many cases, the nonresident comes from a more affluent family situation than does the resident, simply because families with fewer resources can't afford to send their sons and daughters to out-of-state schools. Nonresident students are more likely to come from half a dozen "exporter states" in the northeast and midwest than they are from other sections of the country. (This is more likely true for undergraduate students than it is for graduate and professional students.) Finally, nonresidents often have some special talent

[1]It is my preference to use the term "nonresident student" to describe a student who attends a college or university in a state other than that state in which he or she grew up and in which he or she attended high school. Clearly the term "out-of-state student" is synonymous but I prefer the former merely because it is less cumbersome to say and write. Readers should also be warned that a new meaning for the term "nonresident student" is emerging in higher education. The nontraditional study and extended degree movement has begun using "nonresident" to identify those students who earn their academic credits off campus through correspondence and mediated instruction or other type of internship, field experience, or nonresidential (that is, not on campus) study. Clearly, this use of the term is not directly related to the subject of this report. Throughout this document I will use nonresident to refer to those students in higher education who have the dubious distinction of being charged a higher rate of tuition because they have crossed a state boundary to seek a college or university degree.

that qualifies them for scholarships (e.g., athletic grants, music scholarships, merit awards, etc.). Some special talent or interest may prompt them to seek admission to special programs (e.g., an outstanding department of dance or art or engineering, etc.) or to specific professional schools (e.g., veterinary medicine, law, medicine, etc.).

It is almost an article of faith in American higher education that students from one state should be welcome at the schools and colleges supported by the taxpayers of another state. This has always been the case. Indeed, Thomas Jefferson laid the groundwork for interstate movement of students in his efforts to establish the University of Virginia. He admonished his fellow citizens to keep in mind that the institution must be a strong *national* university if it is to be a strong *state* university.[2] To this day, the University of Virginia has a higher proportion of nonresident students than does any other major public institution in the country.

The basic assumption behind admitting nonresident students is a simple one: Students from other states add something to the educational environment and create a more desirable "mix" of students on campus. Beyond this are more practical reasons. Nonresident students educated in a state may stay there and thereby contribute to the state's growth and welfare. (This is especially true if they are graduates of medical or other professional schools. When there was a teacher shortage, it was certainly true for graduates of state teachers colleges and schools of education.) Also, states that welcomed nonresidents expected other states to welcome their young people who chose to go away to college.

Quite obviously, there were other more important reasons for promoting the migration of students. A nation of states could not afford a continuation of the provincialism that characterized its existence as a federation and its pre-Civil War regionalism. Sending young people to other regions tended to buttress the search for a common frame of reference and a united purpose. It fostered better understanding of the variations in language, traditions, economics, and style of life that existed in the nation. It was yet another kind of "glue" that would help hold the country together.

Considering all of this, it is surprising to note that public institutions of higher education have traditionally given so little thought and energy to the task of insuring that they have a good student mix. Indeed, it has been the private colleges and universities that have endeavored to attract entering students from all sections of the country. Public institutions have generally ignored "place of residence" in making admissions decisions on students from other states. As a result, many institutions have student bodies in which neighboring states and the few major "exporter states" are overrepresented. This has weakened the rationale for having

[2] This observation was made by State Senator Hunter Andrews, a strong advocate of interstate mobility of students. Senator Andrews is currently chairman of the Committee on Education in his state.

nonresident students and may explain why boards of regents and state legislatures have not hesitated to set admissions quotas for nonresident students. The failure of public colleges and universities in this regard is in sharp contrast to the alleged desirability of enrolling students with diverse cultural and geographic backgrounds. The failure to use admissions as a means of insuring such diversity could well be used by some as an argument for further limiting or curtailing enrollment of nonresident students. There can be little doubt that higher education officials and faculty members would view this as a prospect of doubtful benefit to our institutions or to the nation in general.

Prior to 1968 few people in higher education paid much attention to the question of nonresident student admissions or tuition rates. Public college and university tuition rates were still relatively low. As a result, the differential tuition paid by nonresidents was not excessive. In the late sixties all this changed. Educational costs went up and so did tuition. Students grew restive and many long-accepted educational practices came under question. Some people began to challenge rules for classifying students for tuition purposes and to react to the ever-increasing tuition differential for nonresident students. The questions came from two directions. Students thought that the rules were too stringent and the tuition was too high. On the other hand, some legislators and state executives thought that the rules should be tightened and differentials increased to counteract "subsidizing" students from those states that could not or would not provide adequate low-cost public higher education opportunities.

A search of the literature of higher education in 1968 would have yielded almost nothing on this subject. Admissions officers and residency classification staffs in most states didn't know what was going on elsewhere. It was generally known that practices and policies differed from state to state and, given the structure of education in this country, that was not surprising. The degree of variance was unknown, as was the extent to which useful practices in one state could be of help to college administrators in another state. It was in this atmosphere that I began a study of statutes, board regulations, and administrative codes governing classification of students for tuition purposes in all states.

This study was completed in 1970 and was published by the Education Commission of the States.[1] It summarizes and reports, state by state, the rules and regulations used to determine residency status and discusses these rules in the context of relevant topics and issues. Since that time, however, many of these regulations have undergone substantial change. Chapter 1 of this report updates that earlier report by adding results of new laws and governing board actions taken through January of 1973. Many changes in student classification criteria came about as a result of

[1]Robert F. Carbone, *Resident or Nonresident? Tuition Classification in Higher Education in the States*, Report No. 18, Education Commission of the States, Denver, Colorado, March 1970. Also see, "States Urged to Examine Residency Requirements," *Compact*, Vol. 4, No. 2, April 1970.

changes in federal and state laws governing voting rights and the age of majority. The presidential election of 1972 was the major factor that motivated all these changes.

There are factors other than the laws and regulations that influence student migration in this country. Three such factors are the subject of Chapter 2. They are: quotas on the admission of nonresidents, differential admission standards for nonresident students, and the use of higher nonresident student tuition charges as a technique for controlling admission of nonresidents to public colleges and universities. The issues of quotas and higher nonresident tuition were the subject of a study I conducted in 1971. The report of this study, issued by the National Association of State Universities and Land-Grant Colleges and the American Association of State Colleges and Universities, was later carried in a publication of the Education Commission of the States.[4] The information included here represents an updating of the earlier study and indicates the recent trends on these topics.

Each decade the U.S. Office of Education does a student migration study that provides a general picture of the movement of students from state to state in this country. While useful in a general sense, the USOE document provides little more than a headcount of both in-migration and out-migration of college students. What is needed is a more descriptive analysis of migrating students, their backgrounds, and their educational purposes. Such information is available in the ACT data banks and it forms the basis for Chapter 3. The writers, two ACT research staff members, relate their findings to current issues of higher education. They provide insight into recent trends in student migration and suggest reasons for these trends.

The classification of students for tuition purposes is not a simple either-or proposition. There are circumstances in some cases that call for interpretation of the laws and regulations. It would be safe to assert that traditionally these interpretations have been made by college and university administrators and accepted without questions by the students concerned. This occurred in spite of the fact that the regulations tended to be somewhat rigid and the interpretations generally did not give students benefit of the doubt. However, some students were not content with these interpretations and, as a result, there is a body of legal actions that dates back to the turn of the century. Recent years have seen an increase in such litigation and as this report goes to press two cases that could have far-reaching implications are pending—one before a lower federal court and one before the U.S. Supreme Court.

Chapter 4 is devoted to a commentary on the legal issues involved in nonresident student matters. It was written by a practicing journalist who has both researched earlier cases and reported the more recent ones. The material presented here cites

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[4]"Quotas and Dollars: The Squeeze on Nonresident Students," *Compact*, Vol. 5, No. 5, October 1971.

the relevant cases and reports the decisions of the courts in all those that have been adjudicated.

The importance of the 1972 election was cited earlier in this section. Court decisions and new legislation passed in many states prior to the election had a profound effect on nonresident student matters. With their attention focused on extending voting rights and reducing the age of majority, apparently the jurists and legislators concerned did not consider the implications of their actions for other areas of public life. My continuing interest in matters affecting nonresident students prompted yet a third study, this one designed to explore the impact of voting and age of majority legislation on this area of higher education. A discussion of my findings is the subject of Chapter 5.

The initial report of this study was issued by the National Association of State Universities and Land-Grant Colleges and the American Association of State Colleges and Universities. File folders bulging with newspaper clippings in each of the Association offices attest to the wide coverage given this report by the news media. It succeeded in pointing out at least one potentially costly side effect of the new laws – students who become registered voters in a state have taken a big step toward establishing their residency for tuition purposes. If a large number of them do parlay voting rights into lower tuition payments, the budgets of higher education would lose millions of dollars. Some recent reports from a sample of public universities indicate the extent to which the 1972 elections did help students gain reclassification as residents. These data and the major findings of the earlier study are included in the chapter.

My announced purpose herein is to review the past and make some projections into the future. The subject of Chapter 6 is a look at what lies ahead. These remarks were originally delivered, from a paper written for the occasion, at the 1973 Conference on Higher Education of the American Association for Higher Education. The revision contained here places these remarks in the context of the earlier studies and serves as a capstone to this entire discussion.

Additionally, the last chapter tends to relate the subject of nonresident student affairs to the broader topic of funding higher education in this country. It is obvious that the outcome of pending litigation brought by nonresident students will have an important effect on any forthcoming schemes for funding higher education. Early in 1973 the Presidential Commission on Funding Post-Secondary Education was just getting organized and state legislatures were grappling with the problems of funding their institutions of higher education. Given the general orientation toward fiscal austerity in the minds of both federal and state officials, the year 1973 was no time to ignore the fact that millions of dollars of tuition income from nonresident students hung in the balance.

Chapter 1

CLASSIFYING STUDENTS FOR TUITION PURPOSES

Each state, by right of tradition and law, determines who will enter its institutions of higher education. Similarly, some agency of the state (its legislature, coordinating agency, or governing board) determines how much tuition each student will pay for the privilege of attending these institutions. For students who have grown up in the state and who have graduated from in-state high schools, these matters are rather simple and straight-forward. Where nonresident students are involved, however, the issue of admission and certainly the question of tuition assessment take on all the complications of "a keg of fishhooks." This chapter won't straighten out the hooks but it will attempt to put them in some order.

Who Makes the Rules?

Each public college or university in each state must regularly make determinations regarding the tuition classifications for all students enrolled. This means someone must decide who pays resident tuitions and who pays the higher nonresident tuitions. As anyone knowledgeable about the diversity of our "system" of higher education can surely guess, the basis for making tuition classification decisions is characterized by a bewildering variety of laws, regulations, criteria, and procedures. As would be expected, there is variance between practices in the several states. Within states there is often variance between institutions or groups of institutions (the university and the state colleges, for example). The surprising fact is that there is sometimes variance between separate institutions within a multi-campus college or university system.

Part of the diversity can be explained by the fact that often there is no single body or level of government responsible for formulating and promulgating tuition classification rules. In some states this is handled through statute while elsewhere it is the responsibility of coordinating or governing boards; and in a few states the rules are in the form of administrative regulations devised by the campus administration. In about half the states—23 to be exact—governing boards make the rules. While at first glance this may give the impression of uniformity it should

be remembered that only a few states have a single governing board for higher education. Those states that have more than one governing board (for example Illinois, which has four) cannot help but have diversity in their residency classification arrangements.

The 15 states that have legislatively created residency regulations, quite naturally, have reduced the range of variance in their residency classification systems to near zero. Only the idiosyncratic interpretations of these regulations by local campus tuition classification officers precludes complete uniformity in these states. Statewide higher education coordinating agencies serve a similar function in half a dozen states which have more uniform classification arrangements subject, of course, to the same limitation mentioned above. As can be expected, the greatest diversity is found in a half dozen states which permit local campus administrations to make the rules or which employ a variety of these schemes (e.g., Pennsylvania, where a state agency does it for some institutions and the governing board does it for others).

After reviewing a great many statements of regulations for student classification, an interesting point is quite apparent. The quality or comprehensiveness of these regulations is not directly related to who creates them. Some statutes are broad and detailed while others are brief and appear to delegate considerable responsiblity to the institutions where individual cases must be handled. The same can be said of regulations written by state coordinating agencies and by governing boards. The important factor is not who writes them but rather what the regulations say. It seems obvious that they should be reasonable, comprehensive, and capable of being fairly applied to all persons they are designed to cover. In any case, these regulations should afford equal privileges and protection to all citizens in all public institutions in a given state. It is important that the same basic definitions, requirements, and exceptions be used by all institutions in a state thus promoting equal treatment of all citizens regardless of where they may choose to enroll.

To achieve the goals of evenhanded administration of these rules, it will be necessary for most states to mandate more uniformity. This does not mean that the only alternative would be legislative action. State coordinating agencies, if such exist, or merely united action by the several institutions within a state could realize the same purpose. One cautionary note is warranted here. It would be conterproductive if legislatures or coordinating boards or, indeed, governing boards promulgated new or revised regulations without substantial advice from the administrative personnel who have implemented the former rules and who must implement the new ones. Most classification officers would be likely to stress that the difficulties of making clear either-or determinations in individual cases should not be underestimated. That being the case, any new regulations should provide a degree of flexibility to administrators—flexibility in the form of freedom to grant exemption from nonresident fees in certain cases. Legislators, coordinators, or trustees must keep in mind they cannot write regulations that will cover all possible situations. Therefore, a degree of planned divergence from the rules will be useful.

Such flexibility may be just what it takes to keep a university out of a legal battle in these days of increasing student penchant to carry their grievances to the courts.

Earning and Maintaining Resident Status

The easiest way to be declared a resident for tuition purposes at a public college or university is to be born and raised within that institution's state. Of course, that isn't possible for everyone who seeks to attend our public institutions. For those born and raised elsewhere, the task is much more complicated—but it is getting easier all the time.

Up until 1972, nonresident students who had reached the age of 21 had a very difficult time overcoming the initial presumption that they were indeed nonresidents. Kentucky was the only state that regarded 18 as the point where young people "come of age," Alaska said 19 was sufficient, and Utah utilized a double standard—18 for women but 21 for men. It was at that point in life when a student could make claim to resident status in his own right rather than automatically having his status determined by that of his parents or guardian. In 1972, preelection legislation extending full adult status to persons aged 20, 19, or 18 (the laws differed from state to state) changed all that in many states. New residency regulations in these states (Michigan, Illinois, and Nebraska, for example) reflect this change in our public policy.

A second basic requirement for establishing residency—the length of time the individual has resided in the state—has been under question also. Changes that have occurred present a confusing picture. Historically, each state determined the minimum length of this "durational requirement," which usually differed from the durational requirements for all other privileges of citizenship (voting, marriage, a fishing license, etc.). The most common durational period was one year (32 states) and six months was next (8 states). In some states the period varied from institution to institution or from circumstance to circumstance (e.g., if the head of the household entered a state to take a full-time job, residence was immediate, but an immancipated minor would have to be there a year, etc.).

Recent revisions of residency regulations show little consistency from state to state. North Carolina increased its durational requirement from six months to one year while Illinois reduced its requirement from one year to six months. The only rule of thumb that seems to apply is that durational requirements must be "reasonable." The Supreme Court of the United States, ruling in a case involving the University of Minnesota, said that the one year durational period imposed upon nonresident students who enter that institution was a reasonable requirement. This is a major benchmark that is likely to guide policy makers in other states. This case, coupled with the forthcoming ruling on a case involving the University of Connecticut, will determine the durational issue in the years ahead. In the Connecticut case (see Chapter 4) the issue is whether or not a student who initially enters as a

nonresident can overcome this condition and thereby earn resident status. In legal language, this is called "overcoming the irrebuttable presumption of nonresidence."

Several state court decisions have already voided irrebuttable presumption sections in residency regulations (e.g., New Mexico, Colorado) and recent changes in other states have removed these sections, presumably under the assumption that they were not legally defensible anyway. It is possible to meet residency requirements in some states (Georgia and Nebraska, for example) even while the student is currently enrolled in an institution of higher learning. Other states, however, won't let currently enrolled students earn resident status if they are taking more than 8 credits (Colorado) or unless the student can prove he or she entered the state for purposes other than to get an education (Washington). Most states continue to refuse requests for reclassification from students who are currently enrolled. The expected decision in the Connecticut case is likely to reverse this situation thus making it possible for students in all states to earn resident status after a reasonable durational period without having to drop out of school.

Other human conditions --marriage, divorce, guardianship, etc.--also influence a student's chances of becoming a resident. The traditional rule regarding marriage was that a woman assumed the residency of her husband but, in some states at least, she could continue paying resident tuition rates if she married a nonresident. Now some states say marriage has no effect one way or the other on tuition classification (Indiana), that the wife's residency status is independent of that of her husband (Michigan), or that husband and wife can separately qualify for resident status (Tennessee). In South Dakota, new regulations observe currently popular anti-sexist admonitions by merely saying a nonresident (man or woman) who marries a resident gains resident status. This is in constrast to rules in many states that permit women to gain resident status through marriage but do not give similar opportunities to men.

One way many nonresidents who really aren't nonresident students elude payment of the higher tuition charges is by qualifying for an exception to the prevailing rules. Almost every state has some such arrangements. Examples include waivers for children of faculty members who have just entered the state, rebates for graduate teaching and research assistants, being a state or federal employee or a public school teacher in the state, being under military orders in the state or being the dependent of someone under such orders, and being a foreign student. Other less commonly used exceptions cover disadvantaged students, clergy and their dependents, diplomats and their dependents, and part-time students.

Some institutions have the flexibility to waive the nonresident portion of fees for some students. At the University of Wisconsin, for example, this can be done for a limited number of students (8% of the nonresidents enrolled) who earn exceptionally high grades and for an additional 2% of the nonresident students if they attend under "extraordinary circumstances." In other states (Montana, North Dakota, Oregon, for example) similar percentage arrangements exist or there is

some general discretionary power delegated to institutional administrators (as in Florida, Vermont, Massachusetts, and Indiana) which permits them to make exceptions when "justice requires" or in cases that can be "fully justified."

Finally, the use of reciprocity agreements and student exchange programs provides yet another method of permitting nonresident students to attend a public institution at tuition rates equal to those set for residents of the state. Bilateral agreements such as those between Minnesota and Wisconsin and Minnesota and North Dakota permit students from either state to enroll at public colleges in the other as if they were residents. Other examples include the so-called "Traveling Scholar Program" between Big Ten Universities, a Missouri-Kansas agreement covering special fields (architecture, forestry, and various engineering and technological areas), and agreements worked out by the regional associations (SREB, WICHE, AND NEBHE) which permit member states to share student spaces in certain professional schools.

A Final Note

The classification of students for tuition purposes is at best an imperfect human activity. No matter how comprehensive the rules and how diligent the classification officer, some students are likely to be erroneously classified. Those students that have substantial claim to resident status must have some recourse. The normal method is to request reclassification. Usually this means an administrative review of the student's situation. Some institutions have committees that handle such matters but in other colleges an administrative officer is charged with this responsibility. Further appeals are often possible—appeals to the president of the institution, to the governing board, or to the state attorney general or some other governmental authority. Of course, the final recourse is legal action if that becomes necessary. A survey of all public 4-year colleges and universities in 1970 revealed that some of these institutions made no provision for student appeals of tuition classification decisions. Hopefully this has been corrected in recent years. If not, institutions without some such arrangements may well expect to eventually find students resorting directly to legal action.

The information gleaned from considerable study of state-wide and institutional residency classification rules suggests some principles upon which such rules might be based. These regulations, regardless of who writes them, should be reasonable and equitably applied. They should provide some flexibility to those who must administer the rules and they should include some mechanism for appeal and review of initial determinations. Finally, these rules should not forever place students in categories from which they cannot escape—the potential for overcoming initial classification must be provided.

Chapter 2

BARRIERS TO STUDENT MIGRATION

The mobility of American college students cannot be disputed. In 1972 over 450,000 students matriculated in a public college or university located in a state other than where these students attended high school. This is obviously a function of affluence and of the willingness of public institutions to welcome nonresident students.

While nonresidents are free to seek admission to colleges and universities in other states, the institutions don't always make it easy for them to attend. There are hurdles that must be cleared before a nonresident student can become a member of the student body in another state. Three such barriers are:

1. Admissions quotas—In a number of institutions, policies generated by the state legislature, governing board, or administrative officers limit the number of nonresident students who may matriculate. The limitations are either in the form of percentage quotas (e.g., a specified proportion of the freshman class, of all undergraduates, or of the total campus enrollment) or finite numbers (e.g., 1,000 new freshmen plus 500 transfer students). About a third of all public colleges and universities in the nation employ some form of quota system to control nonresident admissions.

2. Differential admissions standards—In order to be admitted to some colleges or universities, nonresident students must meet admission standards that are higher than those applied to resident students. Through the use of this technique, the institution protects itself against admitting students whose academic backgrounds prevented them from entering public institutions in their home states. Admissions officers are thus provided a handy tool for sorting out preferred candidates for admission on campuses where the number of applications exceeds the number of nonresidents the institutions desire to admit. Also, the technique provides the institution with a way of maintaining (or perhaps improving) its academic quality. Reports from institutions indicate that the use of higher admission standards for nonresidents is not widespread. It is estimated that only about one in ten colleges or universities has formally established such standards.

3. Differential tuition. Virtually every public college or university requires nonresident students to pay tuition that is higher than the charges assessed resident students. Cost of an education has become the most effective means of limiting the number of nonresident students that matriculate in our public institutions of higher education. In former years, when student fees were extremely low (or nonexistent in some states), the differential was not great and the factor of cost did little to dissuade students from seeking admission to a public institution in another state. Since the mid-sixties, however, when college costs began to rise sharply, this factor has increasingly influenced student migration. Much of this influence was unintentional but in some states there was a conscious effort to restrict the influx of nonresidents by increasing the nonresident differential at a rate much higher than that applied to resident fees.

The Use of Admissions Quotas

There is considerable variance in the willingness of institutions of higher education to admit nonresident students. No public college or university in the country practices "open admissions" when it comes to nonresidents. Of course, some institutions (particularly the small or less prestigious colleges) take all the nonresident students they can get in hopes of diversifying the student body and attracting students of good quality.

On the other hand, some institutions have found it necessary to impose limits on the number of nonresidents admitted. Generally, these institutions are of three kinds. Some are major public universities with a national reputation (e.g., Michigan and Wisconsin) or with a reputation for quality plus some geographic factor (e.g., Colorado with its recreational advantages). Other institutions are located in states where the available places in public colleges cannot accommodate all the resident students who seek to enter (e.g., the New Jersey state colleges). Still others are located in close proximity to heavily populated states that have traditionally exported large numbers of students (e.g., The University of Rhode Island and the University of Maryland).

An interesting aside illustrates how the use of admissions quotas can become a complicated and misunderstood technique. In the late sixties the surge of applications from exporter states in the Northeast began to create problems for some major universities, especially those in the Midwest. Attempts to regulate the overrepresentation of these states in student bodies led to a complaint by a national organization that certain universities were discriminating against students of the Jewish faith. Specifically, the U.S. Department of Justice was asked to investigate such practices at Purdue University which were said to be prejudicial against students from New York and New Jersey, states with large Jewish populations. No formal action resulted from the complaint, quite possibly since Purdue (or the other institutions identified as considering such restrictions) did not have formal state-by-state quotas governing admission of students from that region.

In an effort to learn more about the use of nonresident admission quotas, a survey of public institutions was conducted in 1970. To update the study, a sample of major universities was surveyed again in 1973. The institutions were all members of two major Washington-based associations that include virtually all public 4-year colleges and universities. The 1970 questionnaire was sent to 414 such institutions and 342 (83%) responded.

The institutions were asked to indicate if they utilized a quota system to govern admission of nonresident students. Results showed that 129 institutions did employ some form of quota. About 40% of the large state universities and land-grant colleges reported having a quota limiting the admission of nonresident students. On the other hand, regional universities and state colleges responded in such a way as to indicate that 60% of these institutions employed some kind of quota.

The following table summarizes the kinds of quotas utilized and their frequency of use. Most common is a quota limiting nonresident students to a certain percentage of the total student enrollment in an institution. This was reported by 66 institutions. Other institutions applied percentage quotas to the freshman class only, as indicated by reports of 24 institutions. Nine institutions calculate percentage quotas based only on undergraduate enrollment. Four institutions reported that they annually select a certain number of nonresident students but have no percentage quota. Finally, 6 institutions said they had limitations based on the availability of facilities; 10 institutions placed enrollment limits on foreign students only; and 10 other institutions reported having limitations but did not specify their nature.

The information in this survey indicated that in 1970 the trend seemed to be toward a reduction in the number of places for nonresident students in public institutions. Three institutions specifically reported that quotas on nonresident students would be more restrictive in the future. Other institutions indicated that they were studying the situation to determine if existing policies would be maintained. It should be recalled that the spring of 1970, when this survey was taken, was a time of great uncertainty for higher education. Most institutions had experienced 2 or 3 years of student protest and public officials in many states were convinced that "outside agitators" caused most such incidents. On top of that, instructional costs were rising at an alarming rate and many of these same public officials were hostile toward the idea of "subsidizing" students from other states who were matriculated as nonresident students. Small wonder that there were pessimistic reports in 1970.

Fortunately, subsequent events proved the pessimists wrong. Reports from a sample of 50 major universities in all sections of the country revealed that while several other institutions had subsequently imposed quotas, in early 1973 the situation had not deteriorated. In some states at least, it has actually improved. This survey sought to determine when nonresident admission quotas had been established and what had happened to them in recent years.

QUOTAS ON ENROLLMENT OF NONRESIDENT STUDENTS IN PUBLIC COLLEGES AND UNIVERSITIES
(Does not include junior or community colleges)

A. Percent of Freshman Class

10% ..... 2 institutions
12% ..... 1 institution
15% ..... 2 institutions
20% ..... 8 institutions
25% ..... 4 institutions
30% ..... 1 institution
33% ..... 1 institution
Unspecified % ..... 5 institutions

B. Percent of All Undergraduate Students

5% ..... 1 institution
10% ..... 2 institutions
15% ..... 1 institution
20% ..... 2 institutions
25% ..... 1 institution
40% ..... 1 institution
45% ..... 1 institution

C. Percent of Total Student Enrollment (Graduate and Undergraduate)

5% ..... 10 institutions
10% ..... 10 institutions
12% ..... 1 institution
15% ..... 16 institutions
20% ..... 16 institutions
25% ..... 12 institutions
30% ..... 1 institution

D. Limitations on Enrollment of Foreign Students Only ..... 10 institutions

E. Numerical Limitation on Total Nonresidents ..... 4 institutions

F. Limitations Based on Availability of Facilities ..... 6 institutions

G. Unspecified Limitations ..... 10 institutions

TOTAL ..... 129 institutions

Twenty institutions reported some kind of quota to govern nonresident enrollments, but 11 of those institutions said the quotas were of long standing and had not been changed in recent years. Some change was experienced in the following places:

University of Arizona—new quotas on undergraduates in certain fields (nursing, architecture, studio art)

University of Hawaii—nonresidents limited to 20% of total enrollment effective Fall 1970 (resulted in a 3% decrease in nonresident enrollment)

University of Kentucky—limits imposed in 1970 set quota of 20% nonresidents in freshman class and 15% of total undergraduate enrollment

University of Maryland—reduced 20% nonresident quota to 15% in 1971-72 and 10% in 1972-73

West Virginia University—new quota limited freshman class to 25% nonresidents

University of Virginia—quota set at the percentage of nonresidents enrolled in Fall 1972 (34%) which indicates a decline in nonresident enrollment there from a 1968 high of 48%.

In contrast, three universities appear to have more liberal limits on nonresident enrollments than they did several years ago. The University of Colorado, which has traditionally set a numerical rather than a percentage quota, reported in 1970 a quota of 1,000 new freshman and 650 transfer students. In 1973 the Colorado restriction was 1,500 new freshman and 900 transfer students. Similarly, the Trustees of the University of New Hampshire have raised their long-standing quota of 25% nonresidents to permit up to 35% enrollment of nonresident students in 1973. Finally, the University of Wisconsin moved from a liberal quota to more stringent limits and then back to a more liberal position. In 1967, Wisconsin's Regents set a 30% limit for each campus but reduced it to 25% in 1969, 20% in 1970, and 15% in 1971. Recently, however, the Board voted to increase the quota to 25% again.

The following reasons help explain the more liberal situations that now prevail in these three states. Colorado has always welcomed nonresidents in large numbers and seemingly continues to feel that the state benefits from attracting well-qualified students from other states. New Hampshire has an exceedingly high nonresident tuition charge and in 1973 its legislature rejected a bill that would limit the number of nonresident students permitted to attend the University of New Hampshire. Its willingness to accept more nonresidents appears to be tied to the fact that such students pay nearly all the cost of instruction thus eliminating any substantial subsidization of nonresidents. In Wisconsin, the change may well be the result of increasing nonresident tuition rates and of a merger of all public colleges and universities in the state. The merger brought all former state colleges under the more stringent university quota system and, coupled with higher costs, caused

serious enrollment drops in those state colleges located near the Illinois and Minnesota borders. More liberal quotas may be a way to encourage nonresidents to once again seek admission to those institutions, most of which now have vacant dormitory rooms that once were filled with nonresident students.

As usual, the national picture is somewhat confusing as the evidence reported above indicates. Perhaps it is safe to summarize it by saying that there has been no widespread move in this country to further restrict student migration, at least not through the use of admissions and enrollment limitations in our public colleges and universities.

Higher Admission Standards

Not a great deal can be said about the use of higher admission standards for nonresident students. For one reason, it is a relatively straightforward matter: nonresident students must normally place higher in their high school graduating class than do resident students if they are to be selected for admission to public institutions in other states. (Recall that almost no public institution sets specific entrance examination scores as a criterion for admission, although most require such scores and use them for other purposes.)

Another reason information on this point is scant is because the surveys of college admissions practices did not elicit specific information on the differential standards employed in the admission of nonresidents. Normally, institutions require that a resident must place above a given point in his or her high school graduating class in order to qualify for admission to the institution. Of course, some state colleges and universities are required by law to accept any student who has earned a high school diploma in that state. In states that don't practice "open admission" for resident students it is conventional to require that in-state students rank in the upper one-half or upper two-thirds of the graduating class.

When nonresident applications are being considered many institutions merely insist that the students rank in a higher quartile of their high school class. At the University of Wisconsin, for example, it has been traditional to accept in-state students from the upper half of Wisconsin high school classes but to reject all nonresident students who did not rank in the upper one-quarter of their graduating classes. Although the cut-off point may differ, this is the usual method employed by public colleges and universities around the country.

Those institutions that regularly receive a large number of applications from nonresident students often find that the simple rank-in-class criterion does not eliminate a sufficient number of applicants. More specific distinctions must be drawn to tailor the applicant group to fit the admissions quota, if one exists. Here is where admission test scores and other criteria are utilized. The other criteria normally require consideration of the special talents or unique characteristics of the

applicants. The fact that a given student may be a stellar athlete, a talented singer or musician, or a gifted actor or artist is often sufficient evidence to place that student in a preferred group that will be invited to register next fall.

Neither of the two surveys mentioned earlier yielded any information on the extent of use of differential admission criteria for nonresident students. Therefore, it was not possible to ascertain any trends in this regard. One piece of information, again from the University of Wisconsin System, revealed an interesting development in that state. As was mentioned above, traditionally the University employed differential admission standards for residents and nonresidents. However, an action of the Board of the newly merged system, has removed this differential, beginning with the entering class of 1973. Public reports did not amplify the rationale for this change but, again, it is thought to be related to the loss of enrollments on some UW campuses located near state borders. The relaxation of differential nonresident admission standards in this manner is likely to help fill empty dormitory rooms on some campuses without having serious effects on academic quality of the student body. (Note: The Wisconsin situation has been used here and in the earlier reference merely to illustrate a point. It is likely that other states have similar problems and have employed similar techniques to find a solution. Unfortunately, no systematic survey of the topic has been made and thus it is impossible to report anything but the illustrative example.)

Increasing Tuition

Admission quotas and differential admission criteria notwithstanding, the major barrier to student migration is clearly a financial one. As the cost of attending a public college or university goes up, the number of students who can attend these institutions must go down. Since nonresident fees have increased more rapidly than resident fees, it is likely that this factor has had a negative effect on student migration. Current data on actual nonresident enrollments in public institutions is difficult to find. We do have, however, a clear picture of the trends in tuition increases over the last several years. The trends are outlined in the following paragraphs.[1]

The tuition differential for nonresident students at state and land-grant universities has almost doubled over the past 8 years. Based on median charges for tuition and fees reported by the National Association of State Universities and Land-Grant Colleges in its annual report on student charges, the median differential paid by nonresident students has grown from $423 to $802.50 since the 1965-66 academic year.

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[1]This analysis was provided by Jane Phillips from the Office of Institutional Research, National Association of State Universities and Land-Grant Colleges, Washington, D.C.

Growth in the tuition differential represents an 89.7% increase. In 1965-66 the differential between median charges for resident and nonresident tuition was $423. For the 1972-73 academic year the differential is $802.50.

The increase in the differential is greater than the total growth rate for either resident or nonresident tuition over the period. Nonresident tuition jumped 79.8%, growing from a median of $734 in 1965-66 to $1,319.50 in 1972-73. Resident tuition rose from $311 to $517.50 for a 66.4% increase.

Dramatic increases in nonresident tuition and in the differential have come during the last 3 years. In 1970-71 the differential rose to $653.50, increasing 15.5% over the 1969-70 differential of $566. In 1971-72 the differential took the biggest leap of all, jumping 19% to $778. The increase to $802.50 for the 1972-73 academic year was only 3.1% indicating a possible slowdown in nonresident charges.

The table below illustrates how resident and nonresident tuitions and the differential between them have increased between 1965-66 and 1972-73.

State and land-grant institutions have not been surveyed to determine what caused the big jumps in tuition differential during the 1970-71 and 1971-72 academic years. However, reports from many of these institutions show a prevailing inclination of state legislatures that might account for the jumps. Many of these bodies believe that an out-of-state student should be required to pay the full cost of instruction, since neither he nor his family are taxpayers in the state in which he is attending

STATE AND LAND-GRANT UNIVERSITIES' MEDIAN TUITION CHARGES FOR 8-YEAR PERIOD 1965-66 to 1972-73

	Nonresident Tuition		Differential		Resident Tuition	
	Amt.	% Inc.	Amt.	% Inc.	Amt.	% Inc.
1965-66	$ 734.00		$423.00		$311.00	
1966-67	$ 782.00	6.54%	$449.00	6.15%	$333.00	7.07%
1967-68	$ 850.00	8.70%	$498.50	11.02%	$351.50	5.56%
1968-69	$ 905.00	6.47%	$645.00	29.39%	$360.00	2.42%
1969-70	$ 966.00	6.74%	$566.00	-12.25%	$430.00	19.44%
1970-71	$1,106.00	14.49%	$653.50	15.46%	$452.50	5.23%
1971-72	$1,260.00	13.92%	$778.00	19.05%	$482.00	6.52%
1972-73	$1,319.50	4.72%	$802.50	3.15%	$517.50	7.37%
% Inc. over Period		79.77%		89.72%		66.40%

school. No doubt many institutions which raised nonresident tuition markedly, thereby increasing the differential, did so in response to full-cost pressures from their legislatures.

Raising nonresident tuition is also seen as a means of limiting nonresident enrollment by many institutions where pressure to accommodate more state residents has forced some type of limitation on out-of-state enrollment.

The range in the amount charged for nonresident tuition by various state and land-grant institutions is quite broad. In 1972-73, the highest annual charge for nonresident tuition and fees at a public state or land-grant institution was $2,535.50, reported by the University of Vermont. The lowest charge was $480, the nonresident charge for tuition at Alabama A & M University, a predominantly black land-grant institution.

A ranking of state and land-grant universities by the size of their tuition differential does not correspond exactly to a ranking by the amount of nonresident tuition charged. The institution with the largest tuition differential for 1972-73 was North Carolina State University, with a differential of $1,575. This institution has the seventh highest charge for nonresident tuition and fees, with an annual tab of $2,002. Thirty-one institutions have tuition differentials of $1,000 or more.

Other institutions with large differentials and their total annual charges for nonresident tuition include: University of Michigan, Ann Arbor, $1,564 ($2,260); University of California, $1,500 ($2,144); and University of Vermont, $1,450 ($2,535.50).

The state and land-grant institutions with the smallest tuition differentials in 1972-73 were predominantly black land-grant institutions. These institutions, which were among the lowest in total charges for nonresident tuition and fees, were: Alabama A & M University, $150 ($480); Virginia State College, $260 ($950); Lincoln University (Missouri), $270 ($633); and University of Arkansas, Pine Bluff, $300 ($719). The only other institution with an out-of-state tuition differential of less than $500 was Auburn University, which had a differential of $450. Total charges for nonresident students at that institution were $900.

The Effect on Admissions

It would be natural to expect that rising college costs would result in a widespread drop in the number of applications from nonresident students. Surprisingly, that is not the case, even though there has been some reduction in nonresident enrollments in selected institutions around the country. At best, it is possible to conclude that students are still *applying* for admission to institutions in other states but slightly fewer of them are actually *enrolling* once they are accepted. The institutions that appear to have suffered most in this situation are the state colleges and regional

universities—the very institutions that stand to benefit most from having a more diverse mix within their student bodies. The major state universities, as a whole, have not experienced substantial changes in the makeup of their student populations.

When 50 major universities were asked to comment on their current admissions situation in 1973, most reported that increasing tuition rates have not adversely affected nonresident student admissions. Only the Universities of Connecticut, North Carolina, North Dakota, and Rhode Island indicated substantial enrollment declines in the nonresident student category. Illinois and Michigan reported minor decreases; Delaware and Purdue did also but both said the losses were temporary. Interestingly, the Universities of Virginia and Wisconsin said they were receiving an increased number of applications from nonresidents in spite of tuition increases. Still more surprising were reports from the Universities of Kentucky and New Hampshire indicating that both the number of applicants and actual enrollment of nonresident students have increased in recent years.

On the other hand, reports from smaller state colleges—traditionally those that attract fewer nonresidents—indicate substantial reductions in the number of nonresident students who are applying and enrolling. It appears that students seeking to attend a college or university in another state don't mind paying higher tuition if they can earn degrees from better known or more prestigious institutions. Thus the major public universities continue to attract nonresidents but the state colleges do not.

The situation can hardly be considered healthy for public higher education as a whole. It is commonly believed that a diverse student body—that is, one that widely represents geographic and economic diversity—adds something to the educational environment of a college. If this assertion is correct, recent trends suggest that many students are in danger of missing one important facet of a higher education. If students at our less prestigious colleges are to attain a "well-rounded education," it will be increasingly important to devise ways to insure that these institutions can attract a greater share of students from other areas of the country.

An American Problem

The United States appears to be almost the only nation in the world where state boundaries have created an educational problem. Few other nations have student migration concerns of the type discussed herein. Some comparative information adds perspective to the situation.

Inquiries were sent to cultural and educational officers at foreign embassies in Washington. Predictably, their responses indicate that in most other countries higher education is funded primarily by the national governments or by a combination of national and state governments. This suggests that internal

subdivisions do not restrict the enrollment of students from other sections of the country. However, in some countries, Mexico for example, students are expected to attend universities in their own states unless the specialty they seek is not available there. Most foreigners are shocked to learn that students in the United States are not free to attend any public institution that they choose.

This line of inquiry produced an interesting and troublesome aside. Foreign governments are growing increasingly concerned about the trend toward higher tuition—particularly higher nonresident tuition—in this country. With few exceptions, foreign students are classified as nonresidents, and thus must pay the higher charges. As a consequence, it is increasingly more difficult for foreign students to afford a higher education in the United States. Many regard this as a sign of growing American isolation and loss of interest in people from other countries. While it should be obvious that increasing educational cost is not an artifact of American foreign policy, the resentment toward this country by government officials and students from other lands could have serious and far-reaching effects on our international affairs. It is a matter that should be brought to the attention of our own governmental officials while resentments are incipient.

It is instructive to consider in some detail how higher education officials in a neighboring country feel about this problem. While Canada may be similar to the United States in many respects, its educational policy on nonresident students clearly differs from ours. In Canada there is no sharp distinction between public and private institutions and that is an important factor. All universities receive some federal and some provincial support even though the governance of most universities is largely the responsibility of private groups. No Canadian university assesses higher fees to nonresident students. In 1973, approximately 8% of the full-time students in Canadian universities were from provinces other than the one in which the institution is located. Only one province, New Brunswick, has imposed a mechanism to limit student migration. This policy did not prevent the universities in that province from enrolling students from other provinces, but it merely limited the amount of provincial support to a predetermined number of such nonresident students. In the words of one Canadian university official, "This has had a dampening effect on admissions of out-of-province students, but no students have had to pay higher fees when admitted."

The situation in Canada is best described by the following statement released by the national association of institutions of higher education in that country:

> The Board of Directors of the Association of Universities and Colleges of Canada (AUCC) rejected higher tuition fees for out-of-province and foreign students. The position, adopted at a recent meeting, came as the result of discussions within the Canadian and international academic community of the implications of a many-faceted problem.
>
> The argument is sometimes put forth that foreign and out-of-province students account for a substantial portion of higher education costs in the province that receives them but that they make little contribution to the economic growth of the welfare of their host province. In times

of tight budgets, some governments are looking for ways of increasing the revenue of universities; hence, the concern with foreign and out-of-province students.

With regard to Canadians, the imposition of higher fees on out-of-province students would be detrimental to national unity and cultural exchanges. Higher fees would prompt students to attend the university in their own province and the resulting decrease in interprovincial mobility would not foster understanding and appreciation of other parts of the country.

Some 18,651 undergraduates were studying outside their provinces of residence in the academic year 1970-71. The numbers vary from region to region. Newfoundland, Prince Edward Island, Quebec, Saskatchewan and Alberta registered an overall outflow while the other provinces were "hosts" to more students than they sent to other parts of Canada.

An even greater degree of interprovincial mobility is found amongst graduate students. In the year 1970-71, residents of a province represented as little as 40%, and never more than 65%, of the graduate enrollment in that province.

The movement of students between provinces also assists the adjustment of regional disparities. In the year 1970-71, the universities in Ontario, Alberta, and British Columbia received 2,060 graduate students from the other seven provinces. In the same year, the universities with graduate programs in Nova Scotia, New Brunswick, Quebec, Saskatchewan and Manitoba received 503 graduate students from the three more affluent provinces.

The AUCC continues to take the view, with regard to foreign students, that there should be no difference in tuition fees for a student whatever his place of residence or his citizenship. Foreign students come to Canada for many of the same reasons that Canadians go abroad to study.

Sharing with the less advantaged is one of the obligations of living in a world community. Canadians go to many other countries because programs of study in Canada are inadequate, non-existent or lacking in the diversity or particular quality sought by the student. At the same time, Canada can help other countries, particularly those which are developing economically, by receiving their students.

Student exchanges between countries are a benefit to all concerned. The students are exposed to the tradition and experience of another culture and return to their countries with a better understanding of another part of the world.

There are many Canadians studying abroad. According to data prepared in 1962 by UNESCO, 8,317 Canadians were studying outside of this country whereas 8,518 foreign students were in our universities and colleges. This balance has prevailed throughout the 1960's. Accurate data is not available for the years before 1960. However, there are indications that this situation of relative balance has prevailed in recent decades and there is reason to believe that, prior to World War II, Canada sent more of its citizens to study outside the country than it was receiving foreign students in its institutions.

Access to Canadian universities should not be made more difficult for foreign students. Canada has a debt to repay and, as one of the more affluent nations of the world, must do its share in the field of higher education.

It should be noted that in very few countries are there higher tuition fees for foreign students. Two notable exceptions are 1) the United Kingdom and 2) the public universities of the United States.

However, private universities in the United States which enroll many foreign students (including Canadians) have a single scale of fees for all students, whether American or foreign.

A Final Note

This chapter has attempted to illustrate how student migration in the United States is being influenced by three factors: quotas, admission standards, and high tuition. Certainly this is a problem area that deserves close study and serious thought by both educators and government officials. It has national and international implications. Many of our smaller public colleges and universities—institutions identified as "Colleges for the Forgotten Americans" by the Carnegie Commission on Higher Education—may well experience a serious quality deficit if the problem persists.[2]

As is the case with so many other educational problems, the answer to this one appears to be financial. The cost of maintaining our public institutions has resulted in higher tuition and institutional policies that militate against nonresident students. Future proposals for funding higher education may help reverse the trend toward parochialism and turn us away from "make the student pay" financing. If they don't, it is likely that all of higher education will be the loser.

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[2]See Alden E. Dunham, *Colleges for the Forgotten Americans* (New York: McGraw-Hill, 1969).

Chapter 3

MIGRATION TO COLLEGE[1]

In the early seventies, many states experienced critical shortages of funds to meet the constantly increasing expenditures required for public higher education and the expanding fiscal needs of other state agencies. The extent to which state tax revenues should be used to provide higher education for young persons from other states was of critical concern during this budget crisis. Formerly, large numbers of students from other states were a source of pride to many public colleges. Their presence added new elements to the student mix and provided evidence that the college was attractive to outsiders. However, when the funding crisis developed, the choice in many states was between restricting nonresident student enrollments in publicly supported institutions or denying admission to in-state citizens because of lack of facilities, operating funds, or faculty. When faced with such a choice the usual decision was to restrict the number of nonresident students.

The prevailing tendency in most states was to curtail nonresident enrollments in public institutions of higher education by increases in tuition and/or student fees, by quotas on the number of students admitted from other states, or by extremely high admissions standards. David Strand, of Indiana University, reported in 1967 that virtually all state colleges and universities had higher tuition and/or fees for nonresident students than for residents. In over two-thirds of these schools, the difference was more than $300 per year. About three-fourths of the colleges also applied higher admissions standards to nonresident students than to residents.

By 1973 there was an unmistakable trend toward increasing constraints on the interstate migration of beginning college students. The climate which fostered restriction of student migration also retarded the once-promising movement toward free and reciprocal student exchange arrangements among the states. A recent publication of The Education Commission of the States stated that "we act more like foreign nations than like united states. Operating in such a Balkanized

[1]This chapter was written by Robert H. Fenske and Craig S. Scott of the ACT Research Institute.

setting, higher education is prevented from helping the states make their fullest contribution to our national goals." The author asserted that "more needs to be done to facilitate reciprocity for students—certainly students should be able to attend colleges in neighboring states with greater ease."

The reasons given for restricting the admission of nonresident students are usually phrased in economic terms. Philip Chamberlain, of Indiana University, suggests "many persons feel that a state which sends more students out of state for higher education than it enrolls from the remaining 49 states is relying on the citizens of another state to pay for the education of its students." This conclusion was based on the simple and direct calculation of the amount of state subsidy which pays for the cost of the typical undergraduate education. There is a wide variation, of course, but normally tuition and fees cover only about one-third of the state's cost.

A five-point economic rationale for supporting admission of nonresident students was stated by President Robben Fleming of the University of Michigan. He listed the following points: (a) Many states like Michigan simply balance in-migration against out-migration since they educate about as many out-of-state students as the number of Michigan residents who have enrolled elsewhere. (b) A recent study showed that approximately one-fourth of 500 University of Michigan graduates who had originally come from other states remained in Michigan, many of them entering high-income professions. The state taxes paid by these professionals would in a few years cover the subsidy for a much larger number of out-of-state students. (c) A reduction in the number of out-of-state students would result in a need for a larger state appropriation since these students pay a substantially higher fee. If they were replaced with in-state students at lower fees, a deficit would be the result; if the number of out-of-state students were simply reduced or eliminated and not replaced with in-state students, a proportionate reduction in costs would not be achieved. (d) In general, only out-of-state students from relatively wealthy families can afford the nonresident tuition and other costs. Since these students spend relatively more money than others, their expenditures represent "new money" and are a significant addition to the economy of the state. (e) The University of Michigan has always been one of the foremost recipients of federal and national foundation funds (more than $60,000,000 in federal funds alone in 1967). The University received this money on the basis of its great national reputation, its ability to recruit distinguished professors and researchers from all over the world, and the attraction that it has for first-rate graduate and undergraduate students. President Fleming summarized these points by stating that "any rational analysis will show that the state of Michigan gains more than it spends on out-of-state students."

The economic arguments both in favor of and against admitting nonresident students can be very compelling. However, philosophical and political reasons are also often given to defend admission of such students. Chamberlain found in his survey that a majority of college and university presidents felt that "out-of-state students contribute to the diversity of the academic and extra-curricular

environment of the campus" and that limitations of the numbers of these students encourages regionalism in education.

Another important factor in student migration patterns during recent years has been a large increase in the number of 2-year colleges. These institutions, known for providing local educational opportunities at relatively low cost to many who would otherwise have been unable to begin college careers, also enroll many students who choose the institution for other than purely economic reasons. During the period 1966-1969 the number of junior colleges in the United States increased by about 24%. Figures reported by the American Association of Junior Colleges show that in 1972 there were more than 2,680,000 students enrolled in a total of 1,111 junior colleges. Since these fast-growing colleges largely enroll commuter students it is logical to assume that the relative percentage of students who migrate to college would be reduced. However, very little information has been available to test this and other assumptions about migration.

In order to provide useful information about the recent trends described above, The American College Testing Program recently conducted the first national longitudinal study to compare the backgrounds and characteristics of students who began college in their local communities with those who migrated from their home communities to colleges within the state, in an adjacent state, or in a state beyond those contiguous to their home states.[2]

The samples used were comprised of students who enrolled in fall 1966 and in fall 1969. Two entering classes (fall 1967 and fall 1968) intervened between the sample classes. Therefore, this report refers to a period including 4 academic years encompassed by the samples despite the fact that only 3 calendar years separated the samples.

The 1966 and 1969 samples exhibited somewhat different patterns of migration. The percentage of students migrating to another state to enroll as freshmen was relatively small in both the 1966 (14.1) and the 1969 (12.1) samples; and there was a small but significant decrease in interstate migration over this 4-year period. (The extremely large sample sizes enabled statistical tests to detect significance of relatively small absolute percentage differences.)

The 1969 sample exhibited a slight but significant increase in local attendance and a corresponding decrease in adjacent state attendance over the 1966 sample. Neither within nor distant state attendance changed significantly over the 4-year period.

The decrease in migration exhibited by the present samples conforms to the findings of several other studies and reflects a decline during recent years in the

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[2]Robert H. Fenske, Craig S. Scott, & James F. Carmody, *College Student Migration*, ACT Research Report No. 54 (Iowa City, Iowa: The American College Testing Program, 1972).

relative tendency of students to migrate. This general downward migration trend has been in evidence since World War II. During the fall of 1968, a total of 16% of the nation's higher education enrollment migrated, whereas in 1949 a total of 20% migrated according to a report from the California Coordinating Council for Higher Education.

The ACT data also revealed a profile of interstate migrating students. (However, it must be pointed out that most students do not migrate out-of-state regardless of their personal, familial, or background characteristics.) The profile of students who migrated to an adjacent or distant state in both 1966 and 1969 indicates that they were likely to have the following characteristics: better-than-average college admission test scores, educational expectations at or beyond a bachelor's degree, a rural or suburban home community, a moderate-to-high family income, no plans to work part time, little importance placed on "low cost" as influencing their choice of college, and greater influence placed on such factors as "national reputation" and "special curriculum." Conversely, students who attended locally in both 1966 and 1969 were much more likely to have low high school grades, low college admission test scores, low educational expectations, urban backgrounds, and low to lower-middle family income. They also expected to work more than half time and stated that "low cost" was a major consideration as a college choice factor.

There seem to be three national developments in higher education that could at least partly account for the present decline in and affect the future of interstate migration of college-bound youth. One is the erection of a variety of barriers by many states to reduce the in-migration of college students. Since there has been an almost complete lack of data comparing students who migrate to colleges with those who stay in-state, it seems clear that these policies could not have been based on the results of research findings.

The second national development which could help account for the proportionate decline in student migration is the rapid proliferation of public junior or community colleges and the concomitant mushrooming of enrollments in these institutions. For many college-bound high school graduates with family and academic backgrounds of the type normally associated with college-going, the availability of local opportunities for higher education has simply provided an alternative to migrating. In addition, the availability of local higher education opportunities has encouraged the first-time enrollment of many new types of students whose financial resources and/or academic backgrounds would have discouraged them from beginning their college careers elsewhere. Encouragement of such students is specifically a policy of these "open-door" colleges.

The third factor that will obviously influence student migration patterns is the outcome of pending litigation involving nonresident student classification and tuition. These cases are treated elsewhere in this report.

Some of the trends revealed by the migration data were most interesting. For example, if the nonmigrating and interstate migrating student profiles become even more clearly differentiated, then American higher education may become sharply stratified purely on socioeconomic bases, a trend that has always been counter to democratic ideals.

The findings of this study have raised many questions which could be foci for further research. Probably the most obvious opportunity for further research is to extend the present study within another time frame to determine changes in the trends revealed here. Further research should make provision for migration analysis by other important control variables, e.g., public versus private colleges and junior versus 4-year colleges. Another interesting approach would be to examine migration patterns as they are affected by interactions between independent variables such as family income and academic ability or achievement. Finally, a most significant study for policy determination would be a case study of migration in sets of states which have erected barriers versus those which have not.

Chapter 4

THE COURTS SPEAK[1]

When state universities and their students are unable through in-house procedures to resolve disputes over eligibility for lower in-state tuition rates, the issue occasionally ends up in state or federal courts. In recent years nearly a score of court decisions have been handed down on this complicated issue, providing at least some guidance on what is—and what is not—legally acceptable. Because rules in the various states often lay down similar principles, the cases also involve similar arguments and result in similar decisions. From a review of the pertinent cases (individually described later), it appears that the major questions and arguments being raised (and the resultant decisions) are these:

- Can a public university require new arrivals to the state to wait a certain length of time before applying for in-state rates?

  Yes. (See especially *Kirk* and *Starns*.) Generally the courts have relied on the legal principle that different classes of people may be treated differently as long as there is a "legitimate state interest" in doing so. Higher out-of-state charges have been acknowledged as legitimate because they are a device for spreading the cost of higher education more equally between new arrivals and longtime taxpayers.

- Can a state set up a rule that prevents a student who was originally classified as a nonresident from *ever* becoming a resident for tuition purposes?

  No. (See *Kline*.) In this case, which will be heard by the U.S. Supreme Court, the judges said that such a rule sets up an "irrebuttable presumption" of nonresidence and is unconstitutional because it allows no avenue for overcoming this condition.

- Can a university which has set up a "waiting period" for acquiring residence require that it be met while a person is not in school?

[1]This chapter was written by Larry Van Dyne.

Maybe. (See *Robertson* and *Covell* for one view, *Thompson* and *Glusman* and *Lamb* for another.) In the *Robertson* case, involving a New Mexico statute, a federal court said it was "unreasonable and arbitrary" to expect a student to forego a major portion of a year's education to qualify for in-state rates. But in the *Clusman* and *Lamb* cases, involving the University of North Carolina, a state court said this non-attendance requirement added "objectivity and certainty" to student claims that they intended to make the state their eventual home.

The courts, speaking through their decisions, have had this to say:[2]

Priest v. Regents of University of Wisconsin. 1882.

The court reaffirmed the right of the University to regulate tuition and fees by stating: "All the acts of the legislature relating to the University, construed together, conclusively establish the power of the board to exact fees from the students for admission, instruction, and the incidental expenses of the University, except as such power is, from time to time, expressly limited."

Kaplan v. Kuhn et al. 1901.

The plaintiff was born in Germany and came to the United States at age 12 to reside with his father who was a naturalized citizen. When 19, the plaintiff moved to Cincinnati where he attended high school for 3 years. Later he became self-supporting, reached the age of majority, voted in three city elections, and contended he did not intend to leave the city. The court ruled that he was entitled to free tuition at the University of Cincinnati, a municipal university that enrolled resident students without tuition charges.

Bryan v. Regents of University of California. 1922.

This case was brought on behalf of a minor whose parents had resided in California 11 months prior to the date she sought to enter the University. She was classified a nonresident because the statutory qualifying period was 1 year prior to initial registration. It was argued that the residency law was unconstitutional because of a state constitutional provision that prohibits granting privileges to any citizen which "shall not be granted to all citizens." The court agreed that the student was a citizen but held that residency classification at the University was not unreasonable or arbitrary. The opinion stated that in view of the fact that there is a 1-year qualifying period for voting privileges "there seems to be no good reason for holding that the legislature may not make a similar classification in fixing the privilege for attending the state university."

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[2]The first five cases cited here (*Priest, Kaplan, Bryan, Halaby,* and *W. C. Barker*) were excerpted from *Resident or Nonresident?* Report No. 18, Education Commission of the States, March 1970.

Halaby v. Board of Directors of University of Cincinnati. 1954.

In another Cincinnati case, the court ruled in favor of the plaintiff. He was a minor alien who resided with his parents who owned property and operated a business in the city. He sought to enter the University of Cincinnati as a resident student but was refused this classification. The court held that alien residents of the city were entitled to the same privileges as other residents and that the student should be granted resident status by virtue of that fact.

W. C. Barker v. Iowa Mutual Insurance Company. 1955.

This was actually an insurance case in which a man brought suit to recover damages resulting from a fire that destroyed property belonging to his son who was a nonresident student in a North Carolina university. In a judgment somewhat incidental to the primary issue of the case, the North Carolina court held that a student who comes from another state and who enrolls in a public college or university remains a nonresident student insofar as tuition is concerned.

Newman v. Graham et al. (members of the Idaho State Board of Education). 1960.

A student, who had lived in Vermont before serving in the military, arrived in Idaho immediately after his discharge and enrolled as an out-of-state student at Idaho State College (now Idaho State University). After a year in the state, however, he sought reclassification as an in-state student for tuition purposes. The State Board of Education, the governing body for the college, denied the request solely because of its regulation that "any person who is properly classified as a non-resident student retains that status throughout continuous regular term attendance. . . ." The student went to court, and got favorable rulings from both a lower state court and the Idaho Supreme Court. The high court said the board's regulation "does not afford any opportunity to show a change of residential or domiciliary status . . ." and is thus "arbitrary, capricious, and unreasonable."

Landwehr v. Regents of University of Colorado. 1964.

A student sought refund of nonresident tuition at the University of Colorado on the grounds that the tuition distinction between in-state and out-of-state students conflicted with several provisions of the U.S. and Colorado constitutions. Cited were provisions of the U.S. Constitution: one guaranteeing "equal protection" and "due process," another delegating to Congress the power to regulate interstate commerce, and still another guaranteeing to citizens in each state the same "privileges and immunities" as citizens in others. Also mentioned was a state constitutional provision recognizing a citizen's right of "seeking and obtaining . . . safety and happiness."

The Colorado Supreme Court, in upholding a lower court ruling, supported the university's point of view—holding that the state legislature had every right to distinguish between in-state and out-of-state students. "It is our considered view,"

the court said, "that this classification is not arbitrary or unreasonable and is not so lacking in a foundation as to contravene the constitutional provisions."

Carrington v. Rash. 1965.

In this case, which is often cited in tuition-related litigation, the U.S. Supreme Court struck down a Texas constitutional provision prohibiting any member of the armed forces who moved his home to Texas during the course of his military duty from *ever* voting in a state election as long as he was in the service. This, the high court said, created a "conclusive presumption . . . incapable of being overcome," and was thus a violation of the "equal protection" clause of the U.S. Constitution.

Clarke v. Redeker et al. (Iowa Board of Regents). 1966.

Clarke, an Illinois resident who came to Iowa to go to The University of Iowa Law School, challenged the University's right to make a tuition distinction between residents and nonresidents on the ground that it violated the "privileges and immunities" clause of the U. S. Constitution. A three-judge federal district court panel let the rule stand, however. Using the same argument, as in *Kirk* and *Starns and Mack*, it said there was a legitimate state interest in making the distinction. Furthermore, the rule allowed out-of-state students opportunity to present "appropriate facts and circumstances" to gain reclassification, it said, and thus wasn't so absolute as to violate the constitution.

A second issue in the case arose out of the University's regulation allowing an out-of-state woman to gain residence through marriage to an Iowa man but not allowing a similar privilege for a nonresident man. Clarke, who was married to a lifelong Iowa woman, said that was sex discrimination. But the court said it read the regulation as "only a guideline" that—while needing clarification—was not unconstitutional.

Despite its support for the regulation, the court sent Clarke's case back to the University'stuition review committee because it believed that in his particular case the regulation had been too rigidly applied. He was subsequently reclassified.

Clarke v. Redeker et al. (Iowa Board of Regents). 1969.

In a second case involving the same parties as in the case above, the student sought damages for being charged nonresident fees in the years prior to his first suit (1964-1967). A three-judge federal district court, later upheld by a federal appeals court, ruled that Clarke could not seek damages in a second suit. The question of payments was a matter that might have been and should have been determined in the original case, it said.

Johns v. Redeker and *Twist v. Redeker.* 1969.

In both of these cases, the plaintiffs challenged an Iowa Board of Regents policy requiring nonresidents to pay higher tuition than residents at Iowa public

universities. That differentiation, they said, violated several clauses of the 14th Amendment to the U.S. Constitution—clauses guaranteeing "equal protection," right to interstate travel, and equal "privileges and immunities." The original trial court refused to convene a three-judge federal district court panel because there was "no substantial federal question" involved. The federal appeals court upheld that, and the U.S. Supreme Court refused to hear the case.

Kirk v. Board of Regents of University of California. 1969.

The student in this case was an Ohio woman who on July 1, 1967, married a California man (himself a resident of that state since June 23, 1966) and sought on September 26, 1967, to qualify for in-state tuition rates at a campus of the University of California. The university turned her down because its regulations provided that in-state rates applied only for people who had been residents of the state for more than 1 year immediately prior to registration. (This sometimes is called a "durational requirement.") Another section of the regulations provided that "the residence of the husband is the residence of the wife."

A federal circuit appeals court, whose ruling was left intact by the U.S. Supreme Court, considered several questions and ended up on the University's side:

The student contended under the wife-takes-hsuband's-residence clause that she should retroactively get credit for her husband's full period of California residency—nearly 15 months. . . . The court, however, disallowed the contention. It said she took up her husband's residency and lost her own Ohio residency only after their marriage—a period of only about 3 months and not enough time to meet the durational requirement.

The student maintained that the 1-year durational requirement was unconstitutional because it interfered with her fundamental constitutional right to interstate travel. It was comparable, she said, to the durational requirement for welfare benefits struck down by the U.S. Supreme Court in a case called *Shapio v. Thompson* in 1969. . . . The court, however, said that it was "farfetched" and "absurd" to argue that people actually get married and move across state lines—or don't—simply because of the effect on their ability to get cheaper tuition rates. Besides, the court said, access to higher education is quite different than access to welfare benefits. The latter involves food, shelter, and clothing whose absence might cause "great suffering or even loss of life." Lack of higher education involves "no similar risks."

The student further maintained that the durational requirement was constitutionally unreasonable because it presumed everlasting nonresidence. . . . Not so, said the court. While it indeed initially presumed that newly arrived students were in California primarily for educational purposes, the court said there was ample opportunity for students to present evidence to the contrary later and to get reclassified.

The student claimed that the durational requirement was not justified by a "legitimate state objective." This, too, the court overruled. The state does have an interest in differential tuition rates because they are a "reasonable attempt to achieve a partial cost equalization" between out-of-staters and those residents who support the university through taxes.

Starns and Mack v. Malkerson et al. (for the University of Minnesota). 1970.

Two students challenged a University of Minnesota's tuition classification regulation, which said that in order to qualify for in-state rates a person had to be a "bona fide domiciliary of the state for at least one year" immediately prior to registration. This durational requirement, the students maintained, was unreasonable and violated the "equal protection" clause of the U.S. Constitution's 14th Amendment. Using the same reasoning as in *Kirk*, a three-judge federal district court panel ruled that the regulation was constitutionally acceptable. It did not infringe on interstate travel, the court said, and served a legitimate state interest. The U.S. Supreme Court let the ruling stand.

Thompson v. Board of Regents of University of Nebraska. 1971.

A student at the university challenged the constitutionality of the state requirement that persons must maintain state residence for 4 continuous months, while not in school, before they can qualify for in-state tuition rates. A lower state court ruled in the student's favor but the Nebraska Supreme Court reversed that decision and let the requirement stand. "In classifying students for the purpose of charging tuition, the state had the legitimate objective of attempting to achieve a partial cost equalization between those persons who have, and those who have not, recently contributed to the state's economy through employment, tax payments, and expenditures within the state," the court said. "Such an objective is clearly a 'reasonable justification' for the discrimination in tuition." Furthermore, it said the requirement that the 4 months be while not in school was "not so burdensome as to forever bar" reclassification.

Barker v. Livingston University. 1971.

In a class-action suit, a student at Alabama's Livingston University challenged a University requirement that any undergraduate who registered initially as a nonresident must continue paying out-of-state fees until graduation. The judge of the Sumter County Circuit Court ruled in the student's favor and told the University to allow students in-state rates if they met any of the following criteria:

(1) He is a registered voter in the state. (2) In the case of a woman, she has married a state resident currently living in the state. (3) He owns real estate, pays taxes, lives in, and intends to remain a resident of the state. (4) He is married, lives in rental property, has a spouse working in the state, pays personal property taxes, buys a resident hunting and fishing license, and intends for his family to remain residents. (5) He is a minor whose family meets any of the

first four criteria. (6) Whether a minor or an adult, he works in the state, has a state driver's license and automobile tags, files a state income tax return, and intends to make Alabama his residence.

Board of Trustees of Colby (Kansas) Community Junior College v. Benton. 1972.

Kansas law allows a junior college to collect higher tuition in the case of a Kansas student whose residence is outside his or her own local district; this suit was brought to determine how a student's residence should be established in these instances. A Decatur County District Court judge ruled that a 1971 state constitutional amendment, which granted the vote to 18-year-olds and allowed them to select a residence apart from their parents, was applicable to the tuition question. By registering to vote where he or she attends college, the court said that a student over 18 had "abandoned any former residence and had established a new residence." Out-of-district rates could, therefore, not be charged.

Hancock v. Regents of University of Wisconsin. 1972.

The state's tuition classification statute provides that a nonresident student must be a "bona fide resident of the state for one year" before he can qualify for in-state rates. As proof of residence, the law says he must meet four criteria—car registration, voter registration, employment in the state, and filing of a state income tax return. Hancock sought a refund for the out-of-state tuition differential he had paid in 1970-71 and 1971-72. The Dane County Circuit Court met him half way; it ruled that he should get his money back for 1971-72, but not for 1970-71. The court said: "It is true that in the fall of 1971, when he applied for resident status, [Hancock] and his wife had been physically present in Wisconsin for one year. . . . But we interpret the language 'bona fide resident for one year,' as requiring a full year to elapse after the four criteria have been met." That, the court said, wasn't until the fall of 1971. The case has been appealed to the Wisconsin Supreme Court, which has yet to rule.

Covell v. Douglas et al. (for University of Colorado Committee on Tuition Classification). 1972.

Under challenge here was a portion of a state law which said that a student taking more than 8 hours per term "shall not qualify for a change in his classification for tuition purposes unless he shall have completed twelve continuous months of residence while not attending an institution of higher learning, public or private, in the state." The Colorado Supreme Court, reversing a lower court ruling, struck down that section of the law. Citing *Robertson v. Regents of University of New Mexico* and *Kline and Catapano v. Vlandis,* in Connecticut, the high court said the law established a "conclusive presumption" of nonresidence and was thus unconstitutional.

Glusman v. Trustees of University of North Carolina and *Lamb v. Board of Trustees of University of North Carolina* (heard jointly). 1972.

Glusman and Lamb, both students at the University of North Carolina Law School, sought reclassification as in-state students after they had lived 6 months in the state, a criteria mentioned in the University's tuition regulations. They were turned down, however, because the regulation also required that the 6-months waiting period be met while a person was not in school. The students challenged that aspect of the regulation as unconstitutional under the "equal protection" clause of the U.S. Constitution, and they were upheld by a lower state court.

The North Carolina Supreme Court disagreed, however. Without the non-attendance requirement, the court said, students would have to prove only that they were "domiciled" in the state—and that is a difficult concept to administer. "Domicile," the court said, "is solely a matter of physical presence plus the intent to make a home. All students . . . visibly meet the first requirement. The second requirement, however, is a concept in the mind of a particular student. . . . A statement of intent is usually difficult to disprove; and the determination of a student's domicile is especially difficult and subject to doubt. Ordinarily, whatever plans students may have with reference to where they will locate when they complete their attendance in an institution of higher education are in flux, frequently changed as unforeseeable circumstances and opportunities influence their future careers."

The 6-months non-attendance requirement, the court said, adds "objectivity and certainty" to the requirement of domicile. "That the board of trustees might have chosen other objective indicators to test the domiciliary intent of applicants for in-state tuition is not to say the one chosen was unreasonable. That there may be hardship cases resulting from the enforcement of these regulations is also not to say they are unreasonable."

Robertson v. Regents of University of New Mexico. 1972.

In a class-action suit, a student challenged a new state law which read: "No person who was classified as a 'non-resident' for tuition purposes upon his initial enrollment in a public institution of higher education in this state shall have his status changed to that of a 'resident' for tuition purposes unless he has maintained domicile in this state for a period of not less than one year during which entire period he has not been enrolled, for as many as six hours, in any quarter or semester, as a student in any such institution." A three-judge panel of a federal district court struck down the law on the grounds that it created an "irrebuttable presumption" of lasting nonresidence. It was "unreasonable and arbitrary," the court said, to expect a student to abandon a major portion of a year's education to qualify for in-state rates.

Kline and Catapano v. Vlandis (Director of Admissions at University of Connecticut). 1972.

Two students at the University of Connecticut challenged a state law which said that a student's residential status "at the time of his application for admission . . . shall be his status for the entire period of his attendance . . ." at the University. The students claimed that to be forever considered an out-of-state student was unconstitutional because it denied them the "due process" and "equal protection" guaranteed by the U.S. Constitution. A three-judge federal district court panel agreed. The law, it said, created an "irrebuttable presumption" of nonresidence. The University appealed and the case will be heard by the U.S. Supreme Court.

Sturgis et al. v. State of Washington, University of Washington, and Shoreline Community College

In this case, which at the time of publication was still pending in a federal district court, students challenged the constitutionality of the state's 1-year durational residency requirement as it relates to tuition reclassification requests. The challenge, which involves the same issues as in cases above, was based on several constitutional provisions—including guarantees of due process, equal protection, and right to interstate travel. *(Editor's note:* This case may ultimately involve a determination of the right of a state to discriminate between residents and nonresidents for tuition purposes, according to an analysis by Professor Allan D. Vestal of The University of Iowa Law School. Professor Vestal asserts that "should it be determined ultimately that some or all plaintiffs are not or were not residents of the state of Washington, then it is possible that the constitutionality of discriminatory treatment of nonresidents may be faced." However, he points out that there is no assurance that the litigation will develop to this point. A final judgment in this case has been postponed pending a decision by the U.S. Supreme Court on the Kline and Catapano v. Vlandis case reported above.)

Chapter 5

THE 1972 ELECTIONS MAKE A DIFFERENCE

As a prelude to the elections of 1972, there occurred in this nation a major shift in public policy regarding the rights and responsibilities of young people. Full adult status and/or voting rights were extended to millions of citizens between the ages of 18 and 21 years. It took a major constitutional amendment, some federal and state court decisions, and actions by nearly all the state legislatures to accomplish this shift.

The information above is relevant to this report because it had the effect of extending the franchise to nearly four million college students and extending full adult status to some of them. Included in this number were almost 450,000 college students who were classified as nonresidents for tuition purposes. This raised an interesting issue: If nonresident students are citizens for all other purposes, including voting, can they still be considered nonresidents for tuition purposes?

If adult status and voting rights for college-age citizens ultimately results in the elimination of nonresident tuition charges in public colleges and universities, the effect on higher education budgets will be staggering. The drop in institutional income *could* range from $250 to $300 million a year. This estimate is based on a survey or nearly 400 public 4-year colleges and universities conducted in mid-1972. The institutions contacted are all members of the National Association of State Universities and Land-Grant Colleges and the American Association of State Colleges and Universities. The survey also yielded information on the accessibility of the ballot box to students, student predisposition to become registered voters, and efforts by nonresident students to use their newfound status as voters to avoid paying higher "out-of-state" fees.

Responses covering 116 NASULGC institutions and 244 AASCU institutions provided a comprehensive view of the situation in all states. This represented all students enrolled in the state universities and land-grant colleges and 85% of those attending AASCU institutions. In an effort to include the 15% nonrespondents

among AASCU institutions, a method of estimation yielded a general approximation of both enrollments and tuition income for *all* the institutions in that Association. Estimates were also used for some NASULGC institutions when responses were incomplete.

Enrollments and Tuition

A total of 463,357 *nonresident* students were enrolled in all public 4-year colleges and universities during the Fall term of 1971. This estimate is based on full-time-equivalent enrollment figures reported by the institutions.

NASULGC institutions enrolled 297,757 of these nonresidents. The 85% response from AASCU institutions revealed that 140,760 nonresident students were enrolled and when this was extrapolated to include all AASCU institutions the total enrollment in those colleges and universities was estimated to be 165,600 nonresident students.

In order to convert the above figures into an estimate of "potential" tuition income from nonresident students, it was necessary to make a basic assumption that should be clearly understood. It was assumed that all the 463,357 students actually paid full nonresident tuition at the prevailing rates for full-time nonresident students at each institution.

As many respondents correctly pointed out, this assumption does not hold true at many (if any) of the public colleges and universities in this country. Calculations based on this assumption clearly give an *inflated estimate* of the income institutions receive from nonresident fees. There are several reasons for this. The definition of "full-time-equivalent students" is vague, as is the definition of "normal load." Often, nonresident students who take up to six credit hours pay the resident student rate. Many students attend under scholarships, grants, or special fee remission schemes that excuse them from the higher rates. Finally, employees of the colleges and students who serve as graduate teaching and research assistants are excused from nonresident fees as a condition of employment.

The complexities involved in trying to adjust this survey to reflect this multitude of variations would have resulted in a monumental task. Requesting actual income figures from printed budgets would have been another approach but this was rejected because timing of the survey would have precluded use of accurate Spring term income figures. Therefore, it was decided that a total "potential" income figure would be derived by multiplying total nonresident enrollments by the differential between resident and nonresident tuition. Further, it was decided that the total "estimate" of income from nonresident tuition would be reported as a range of from 75% to 90% of the larger figure. It was assumed that this would deflate the estimate sufficiently, thus representing a figure as close to reality as possible.

Using this method, it was possible to estimate the total "potential" nonresident tuition income to all public 4-year colleges and universities to be $330,559,596 during the 1971-72 academic year. The figure for NASULGC institutions was $239,450,922 and the figure for AASCU institutions was $91,108,674 (based on the 85% response totaling $77,442,373 extrapolated to reflect 100% of AASCU institutions). Using these estimates:

Total potential income
from nonresident tuition = $330,559,596

75% of the total = $247,919,697

90% of the total = $297,503,636

it then was possible to estimate that the total *actual* income from nonresident tuition in public college and university budgets was between $250 million and $300 million in 1971-72.

Therefore, if future events mandate that nonresident students can qualify for "in-state" tuition rates by virtue of their status as voters, the loss of income to public institutional budgets would fall somewhere in the $250 million to $300 million range, based on 1971-72 estimates.

Voting Rights for Students

Institutions were asked if court decisions or other legal actions in the local community or state influenced the right of students to become registered voters in state or local elections. The replies clearly indicate registration lists are much more accessible to students at this time. Affirmative responses to this question were received from 125 institutions.

The widely reported Tennessee case (Dunn v. Blumstein) was an important factor in removing obstacles to student registration. In that case, the United States Supreme Court struck down long durational requirements for voting in state and congressional elections. This action was cited in a spate of opinions by state attorneys general, decisions by state election boards, and state court rulings which directed voting registrars to ignore long qualifying periods and permitted only a 30-day preelection period for verifying the authenticity of voter lists.

State courts, acting prior to or independent of the Tennessee opinion, have generally ruled in favor of students who sought voting rights in the communities where they attended college. Such cases have been reported by institutions in California, Connecticut, Kentucky, Maine, Michigan, New Jersey, North Carolina, Vermont, and Wisconsin. Two cases illustrate the general view expressed by the courts. In a California case (Jolicoeur v. Milhaly), the State Supreme Court ruled that a recent State law granting voting rights to all citizens age 18 or older

requires voter registration to treat all citizens alike for all purposes related to voting. Thus, the domicile of a prospective voter cannot be questioned solely on the basis of age. The Kentucky case (Bright v. Baesler) permanently enjoined registrars from imposing upon students domiciliary requirements that are more rigorous than those imposed upon other citizens.

In virtually every state, institutions reported that local voter registrars certified students as voters if they met other qualifications and, in some states, if they also declare intent to remain in that state. This is somewhat in contrast to an earlier survey conducted by Common Cause that reported between 33 and 40 states had opened voter rolls to students. In states alleged to prohibit students from registering in communities where they attend college (Indiana, New York, South Carolina, Tennessee, and Texas), college officials, in all these states except New York, report that such students are being registered as voters. In other states where the presumption of nonresidence supposedly cannot be overcome if the student lives in a dormitory or pays out-of-state tuition, some colleges report that students are being registered (e.g., Minnesota and Virginia) or that legal actions are pending that give promise of permitting them to register (e.g., Delaware, New Jersey, and Ohio).

Based on these reports, it appears likely that few nonresident students anywhere in the country were denied voting rights in their college communities during the 1972 elections. The Council of State Governments, in a monograph titled "The Age of Majority," agreed. The publication concludes that "the predominant number of opinions and the cases thus far decided in the high U.S. or state courts is that the younger voter has the right to determine his residence in the same manner as a voter aged 21 or more." Whether this would have any effect on status as *nonresident for tuition purposes* in the colleges and universities was unknown.

Have the Students Registered?

The right of students to register as voters can be firmly documented. Whether or not students took advantage of this opportunity is a more difficult question to investigate. College and university administrators contacted in this survey were asked to estimate the extent of student registration in the community in which the institution was located.

The responses seem to corroborate earlier reports that students did not flood voter registrars with applications. Only 23 institutions said that 70% or more of their students were registered. The highest estimate reported was 78.8% at Bowling Green State University (Ohio), based on a "random sample poll" conducted by the student newspaper.

In 135 other institutions, administrators said that from 30% to 70% of the students had registered. However, in the largest cluster of institutions—182 colleges and universities—fewer than 30% of the students had officially been listed as voters.

It should be recalled that these were, at best, rough estimates. No hard figures on student registration were readily available to the survey respondents. Furthermore, the survey was made in Spring 1972, so these estimates do not reflect voter registration activities conducted in the summer.

Postelection estimates made by the Bureau of the Census indicate that fewer than 50% of the newly enfranchized voters actually cast a ballot in November 1972. This is consistent with the moderate student registration figures reported here.

Classification for Tuition Purposes

It is conceivable that at least some of the college students who voted were classified as "nonresidents for tuition purposes." If so, they may qualify for "in-state" tuition by virtue of the fact that they are now registered voters of the state or community.

Campus officers were asked if students had sought to be declared residents for tuition purposes under these circumstances. The responses were almost evenly divided: 175 replies indicated that one or more students had requested reclassification because they now were registered voters, while 174 institutions reported that no such requests had been filed. However, a number of institutions in this latter category indicated that they expected requests for reclassification when the students returned to classes in the Fall of 1972. Following the 1972 elections, a second survey was conducted to determine whether or not this expectation was realized.

In all, 52 NASULGC institutions were included in this second sample. Of that number 39 responded. The questionnaire item was as follows:

Many students qualified to vote locally in the November (1972) elections. Has this fact prompted more students to seek reclassification as residents for tuition purposes?

The replies permitted the following categorization:

Number of Institutions	Response
9	No
12	Some but not significant numbers
13	An appreciable increase
3	Approximately double last year
2	More than double

The two institutions that reported an increase in student reclassification requests more than double previous years were the University of North Carolina ("488

applications between October 1972 and February 1973; an increase of 300%") and the University of Virginia (a "tenfold increase"). The Universities of Alabama, Iowa, and Washington indicated their requests for reclassification had approximately doubled. No increase was reported by the Universities of Colorado, Indiana, Mississippi, Montana, South Carolina, Wisconsin, Wyoming, New Mexico, and Ohio State University. The 25 institutions that reported "some" or "an appreciable" increase represented every section of the nation; some were large while others were small, some were distinguished centers of learning while others had more modest reputations. No obvious fact appears to explain why they differ from either those institutions that reported no increase in reclassification requests or those that reported a surprisingly large number of requests.

Officials on many campuses were clearly concerned about how reclassification might affect their fiscal situation. It would appear that some institutions resisted approving reclassification of students at this time by asserting that university criteria for establishing residency are not based on the student being a registered voter in the state. One official expressed the hope that "the courts will rule that criteria other than voter registration can be used for out-of-state tuition classification." Still another said "there had traditionally been a close relationship between voter registration and classification of students for tuition purposes" in his state. He recommended that "in-state voter registration no longer be used by the University as a criterion for establishing residency for in-state tuition charges." Finally, one university administrator even suggested that the less said about the issue the better, seemingly expressing the hope that students would not press the point.

In general, there has been no nation-wide movement by students to parlay their newfound voting rights into claims for lower tuition. The evidence is mixed. Perhaps the outcomes of pending legal actions will have more impact on tuition classification matters than did the extension of voting rights. Some speculation about this is included in the following chapter.

Chapter 6

A LOOK INTO THE FUTURE

The 1972-73 academic year is likely to be remembered as a "watershed year" for nonresident student matters. It marked the divide between a relatively well-ordered past and a future fraught with uncertainty for nonresident students and the institutions of higher education they attend.

Two significant benchmarks signal the point of change. First, new laws and court decisions extended voting rights and/or adult status to college-age citizens. This helped identify several hundred thousand students who might benefit from a change in the traditional method of assessing tuition in public colleges and universities. Second, there were new legal actions attacking rules governing nonresident student classification. This presents the clear possibility that changes in nonresident student rules are likely to be nation-wide rather than restricted to a single institution or state.

Adult Status

The Twenty-sixth Amendment to the Constitution extended federal voting rights to 18-year-olds and it was followed by a parade of state legislation designed to confer voting rights or full adult status on younger citizens. Furthermore, many state and local voting registrars were ordered to accept college students as voters in the communities where they attend institutions of higher education.

Interestingly, there was almost no public commentary on the side effects that might result from these events. The general elections of 1972 served to dramatize one possible consequence. Students who now were local voters, regardless of the location of their parental homes, might also have to be considered residents for tuition purposes. If that happened institutional budgets would be hurt. Judging by the amount of newspaper space it generated, my "doomsday" estimate of a potential annual loss of $250 to $300 million in nonresident fees came as a shock to educators and the general public.

Subsequent events indicate that immediate consequences were minimal. However, thousands of nonresident students (and the parents who support them) became aware of the relationship between newfound voter status and the higher tuition they pay. Whether they voted or not, more and more students who were initially classified as nonresidents have sought reclassification for lower tuition status. Some have carried their cases to the courts. Considering the potential impact of the voting rights bills, it is ironic to note that less than half of the newly enfranchised voters bothered to cast a ballot in the 1972 presidential election. The Census Bureau estimated that only about 48% of the 11 million newly eligible young people voted.

Legal Actions

Two court cases, one filed prior to the election and one after, spoke directly to the future of nonresident tuition in this country. Both cited voter registration as a relevant factor.

The so-called "Connecticut case," which moved to the level of the United States Supreme Court, addressed the question of whether students who were initially classified as nonresidents can overcome that condition and earn resident status. Regulations in Connecticut mandated that a student's status upon initial registration must be his status for the entire period of his attendance. A three-judge federal court found this in violation of the 14th Amendment and ordered tuition refunds. The State appealed and a Supreme Court decision was pending when this report was published.

The basic issue was—Can the initial presumption of nonresidence be overcome? The Supreme Court of Colorado and a lower federal court in New Mexico, ruling on similar laws in those states, had already said that students must be permitted to overcome this presumption. However, the North Carolina Supreme Court ruled that such a presumption cannot be overcome while the student remains enrolled. That ruling notwithstanding, it is relatively safe to predict that the U.S. Supreme Court decision will have the effect of making nation-wide the structure against irrebuttable presumptions of nonresidence for college students. Consequently, all institutions will have to define exactly how nonresident students can earn resident status.

An interesting sidelight is the matter of tuition refunds for students who were denied reclassification. If the Court awards refunds, other pending suits could be affected. For example, a pending class action suit in Maryland asked a federal district court to award refunds to all former nonresident students who now may be able to qualify for resident status. University officials in Maryland shudder when they calculate what that would mean in dollars. One fiscal officer said, "We just couldn't pay it—it would break us."

The second legal action has even more serious long-term fiscal implications for public colleges and universities. A group of nonresident students at the University of Washington challenged the constitutionality of the basic concept of charging higher tuition to nonresident students. They also asked for refunds of tuition paid in the past, and one student asked for damages because higher nonresident tuition prevented her from entering a public institution. Regardless of how the lower federal court rules, appeals are likely.

This case could provide the U.S. Supreme Court an opportunity to determine whether or not nonresident tuition can legally be assessed by any college or university in the nation. If such a decision favors students, my "doomsday" estimates would have to be considered prophetic as well as shocking. If the Court orders refunds to students currently enrolled, institutions will be faced with an unprecedented fiscal crisis.

A Brief Look Back

There is no accurate historical account of the beginning of our system of differential tuition assessment. It would appear that as states established public colleges and universities, it was generally assumed that nonresidents who sought admission would have to pay higher fees. When basic tuition was very low (or in some cases nonexistent) nonresident differentials were also low and apparently few problems occurred. Early nonresident student litigation involved foreign immigrants seeking to establish residency for tuition purposes.

In the mid-sixties increasing educational costs and the first wave of campus disruptions focused attention on tuition and especially on the differential between resident and nonresident fees. This prompted a general move to gradually shift a greater share of instructional costs to students. A "make the student pay" philosophy and the aversion to "subsidizing out-of-staters" caused nonresident fees to rise even faster than did resident tuition. As student violence intensified and general public hostility toward higher education grew, it was less painful for local citizens to blame disruption on "outside agitators." This prompted even higher nonresident fees.

Two other techniques for controlling student migration came into the spotlight about this time. Many institutions had for many years employed both nonresident admissions quotas and more stringent admission standards for nonresidents. In the late sixties there was a discernible nation-wide trend to lower the quotas and raise the standards. A variety of motives were behind these moves. States needed to provide more student spaces for residents, soaring institutional budgets lent new credence to the charge that out-of-state students were being subsidized, and continued campus violence shocked the nation.

The combination of higher nonresident tuition, more stringent admission requirements, and fixed quotas on nonresident enrollment did discourage many students from crossing state boundaries to seek an education. Unfortunately, only the smaller, less cosmopolitan public colleges (where nonresident students add greatly to the student "mix") suffered serious enrollment declines. Many now have empty dormitory rooms. The major state universities still attracted nonresidents in large numbers.

All of these pressures also focused renewed attention on the rules institutions used to classify nonresident students. As was pointed out earlier, few states had systematic or well-defined residency classification mechanisms, even where regulations were statutory. Students, feeling the press of higher tuition, became more eager to seek reclassification and to challenge the regulations—sometimes by going to court. In most cases, legal decisions favored the students.

Gradually institutions, their governing boards, and state legislatures began to realize that their nonresident student classification regulations were inadequate or did not conform to federal and state constitutional guarantees of equal protection and privileges. As the movement for voting rights and adult status for younger citizens began to emerge, many legislatures and boards began to revise their rules. Some regulations were liberalized, recognizing the new conditions, but others reflected attempts to divorce tuition privileges from other rights of citizenship (voting, etc.). As could have been predicted, these latter instances provided the basis for much of the recent legal action in this area. The 1972 general elections and litigation pending before federal courts helped bring matters to a head at the very time this report was being written. Public higher education must now open a new chapter in its handling of the nonresident student. The urge to speculate about this new chapter is too strong to resist.

What Lies Ahead?

Contrary to the fears expressed by many of us in higher education, the concept of differential nonresident tuition will *not* disappear from the scene. It is highly unlikely that states will be prevented from collecting higher tuition from students who are clearly residents of another state seeking a higher education. However, out-of-state students won't be nonresidents forever.

Institutions of higher education will continue to classify such students as nonresidents only until the student is able to meet reclassification criteria. This most likely will be after the student has remained in the state for 1 year, even if he or she spends part of the summer out of the state traveling or visiting parents. Those states that now have a durational requirement of less than 1 year will be motivated to rewrite their regulations extending the requirement beyond 4 months or 6 months as now stipulated. This will prevent nonresident students from earning resident status during their first year of attendance at a public college or university.

In practical terms, this means that only freshmen and first-year graduate students, if they come from out-of-state, will be designated nonresidents and be subject to higher tuition rates. After the first year of attendance, most nonresident students should be able to meet reclassification criteria. Of course, some students who remain enrolled will not be able to meet reclassification criteria and, for a variety of reasons, some may not seek to do so (parents may wish to continue claiming them as income tax exemptions, possible loss of home state scholarships, etc.). Tuition loss to institutional budgets will equal the differential portion of tuition such reclassified students would pay in the remaining 3 years, *if* those students do not drop out or transfer back to their "home" states.

There is no reliable method of calculating the total potential tuition loss resulting from this situation. One "quick and dirty" estimate could be based on my "doomsday" prediction (a total potential loss in 1971 of $250 to $300 million based on an estimate of 438,500 nonresident students in public colleges and universities). It is likely that freshmen and first-year graduate students make up about half of the nonresident students on most campuses. (Many students transfer to a home-state institution after 1 year, giving sophomore, junior, and senior classes a small portion of nonresidents, and most master's degree students are in residence only 1 year.) If this is the case, the potential tuition loss to institutions would likely be about half of the earlier projection—that is, between $125 and $150 million a year for all public 4-year colleges and universities in the country. This estimate assumes no increase in nonresident student enrollment in future years and no increase in the tuition rates that prevailed in 1971. (Clearly the assumptions underlying these figures are so broad that it is at best a wild guess and should be received in that spirit.)

There is some evidence to suggest that the situation described here is not pure speculation. In California a new law already affords nonresident students the opportunity to earn resident status. Further, the U.S. Supreme Court, in a case brought against the University of Minnesota, ruled that a 1-year durational period was not unreasonable. The lower court rulings against irrebuttable presumptions of nonresidence and the likely Supreme Court determination of the Connecticut case should further establish that students, wherever they attend college, can become residents for tuition purposes following a reasonable durational period. It will then be incumbent upon the institutions (or the boards and legislatures that establish these regulations) to set out the terms of the durational period and the criteria which nonresident students must meet to warrant their reclassification as residents.

The Reclassification Problem

It is my contention that nonresident students will continue to pay higher tuition but that they will not be denied an opportunity to overcome their nonresident status. If so, what must these students do—in addition to meeting the durational requirement—to demonstrate that they are indeed entitled to reclassification? What other criteria will institutions utilize in adjudicating individual cases? It is my

guess that initial attempts to specify a discrete set of criteria will give way to a more informal system in which the burden of proof will be placed upon the student. When a nonresident student requests reclassification, he or she will be asked to build a case supporting the contention that initial classification is no longer valid.

This will mean that all institutions enrolling nonresident students must have a defensible procedure for hearing the student arguments. Quite likely, an administrative review by a single officer of the institution will not escape criticism or legal challenge. A faculty-administrator committee, or better yet, a faculty-student-administrator committee would be advisable. In some institutions where committees of this nature exist, the campus legal counsel or a member of the law school faculty appointed to the group lends a measure of expertise to its deliberations. The fact that students appearing for reclassification hearings are sometimes represented by counsel makes the presence of legal talent on the committee even more desirable.

While the student may be given complete freedom in building a case for reclassification, the committee could stipulate basic areas of evidence which the student might address. For example, evidence of:

1. Physical presence in the state for the 12 months (or period specified in the institution's durational requirement) prior to the date of next registration. This period would normally include the months of June, July, and August but need not include short vacations or holidays normally set in excess of 2 weeks in length.

2. Continuous or nearly continuous gainful employment in the state that can be described as substantial in extent—that is, more than part-time employment. Substantial employment might be defined to mean an average of at least 20 hours per week while the student is enrolled and at least 40 hours per week when not enrolled.

3. Payment of state income taxes on all income earned during the durational period, including all income earned outside the state.

4. Registration to vote in the state and actual exercise of this right in a municipal, county, state, or national election if one was held during the durational period.

5. Registration of a motor vehicle in the state if the student owns such a vehicle, and possession of a valid state driver's license if the student drives a motor vehicle.

6. Ownership of real property and payment of property taxes to a jurisdiction within the state, or indirect payment of property taxes by renting a domicile in the state.

7. Involvement in some community activities (social, civic, fraternal, or service) or other such activities within the state that are not primarily student-oriented or college-related.

In any event, the student should be encouraged to marshall the strongest possible case using any relevant evidence available.

When students present substantial evidence in these and/or other relevant categories, and if they have met the basic durational requirement, institutions should reclassify them as residents. Failure to do so could rightfully lead to court action. It would seem that reasonable and equitable institutional regulations and hearing procedures would be less costly in the long run than frequent legal battles waged by students who have established some substantial claim to resident status.

Conclusion

In the comic opera bearing his name, Candide is told by the sophistic Dr. Pangloss that "all things are for the best in this best of all possible worlds." Recalling Candide's troubles and the current woes of higher education, it is difficult for many of us to believe that the past year has been the best of all possible worlds for institutions of higher education. Yet, without subscribing fully to the Panglossian premise, it is possible to find good in the nonresident student situation.

For a time it looked like skyrocketing tuition levels and parochial attitudes expressed through restrictive admission quotas would almost curtail student migration in this country. However, extending voting rights, granting adult status to young people, and raising legal claims to the level of the U.S. Supreme Court give hope that American college students will in future years still find it possible to matriculate in a state college or university in a section of the nation outside their home-state boundaries.

Widespread current interest in nonresident students and the issues stemming from student migration make this an opportune time for us to restate a precept widely accepted among professionals in higher education: We assert that welcoming students from other states to our public colleges is good for the students (both residents and nonresidents), good for the institutions, and good for the country. In making this assertion we voice support for freedom of movement and freedom of opportunity in our land; in making it we voice scorn for narrow parochialism and for public policies (whether they be made by legislators, trustees, or administrators) that limit interstate movement of students in our land.

It should always be remembered, however, that stating our belief in the value of student migration encumbers us with responsibilities to make the system both educationally and economically sound. We must apply our skills to devising alternative tuition assessment methods that recognize the prerogatives of in-state

residents without unduly penalizing out-of-state students who come to us for an education. Finally, all institutions of higher education must take steps to insure that the nonresident students they do admit add something to the student mix and to the life of the campus, community, and the state. This is a matter seriously neglected at present.

In sum, the prognosis for the future of nonresident tuition is fairly positive, though there may be some painful days ahead. Higher education institutions and their budgets may never be quite the same as they once were. Yet, our survival instincts and creative talents may help us use this situation to actually improve the responsiveness and viability of our colleges and universities.

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